

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: OK. We're going to get started. It's 9:00, I think. All right, good morning and welcome to the Health and Human Services Committee via Zoom. My name is Senator Sara Howard and I represent the 9th Legislative District in Omaha and I serve as Chair of this committee. I'd like to invite the members of the committee to introduce themselves, starting alphabetically with Senator Arch.

ARCH: John Arch, District 14, Papillion, La Vista, in Sarpy County.

HOWARD: Senator Cavanaugh.

CAVANAUGH: Machaela Cavanaugh, District 6, west-central Omaha, Douglas County.

HOWARD: Senator Hansen.

B. HANSEN: Senator Ben Hansen, District 16: Washington, Burt, and Cuming Counties.

HOWARD: Senator Murman.

MURMAN: Senator Dave Murman, District 38: seven counties in south-central Nebraska, south, west, and east of the tri-cities.

HOWARD: Senator Walz.

WALZ: Senator Lynne Walz, representing District 15, all of Dodge County.

HOWARD: And Senator Williams.

WILLIAMS: Matt Williams from Gothenburg, Legislative District 36: Dawson, Custer, and the north portions of Buffalo Counties.

HOWARD: Perfect. Also assisting the committee are our legal counsels T.J. O'Neill and Paul Henderson, who will be taking notes and moderating the Zoom. I also want to thank the Legislature's Technology Office and the Clerk's Office for their assistance in putting together these Zoom meetings, and I want to thank NET Nebraska for livestreaming them. This is our second day of livestreaming-- so far, so good-- and we want to make sure that they know that we're grateful for their help today. These briefings are being recorded. A livestream is on NET's website at netnebraska.org. You can also find the livestream through a link on the HHS Committee's page on the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Legislature's website at nebraskalegislature.gov. Please keep yourself muted unless you are testifying. There's an icon at the bottom of your Zoom window that looks like a microphone, which you can click to mute or unmute yourself. This morning, we're, we're hearing three briefings. We'll be taking them in the order listed on the agenda on the legislative calendar. But just for clarity, we're going to start with the Office of the Inspector General of Child Welfare, then we'll go to the Foster Care Review Office, and then we're hear-- we'll hear from the Children's Commission. If you also have written testimony to submit, the Legislature's policy is that all letters for the record must be received by the committee by 5:00 p.m. the day prior to the hearing. We will not be using a clock today because we don't anticipate any testimony, and so our, our participants will be briefing us and then we'll go through questions and, and so we won't worry about a clock today. When you testify, do still begin your testimony by stating your name clearly into the microphone and then please spell both your first and last name. With that, we'll begin today's briefings with the Office of the Inspector General of Child Welfare. And we're allowing you to screen share if you do have a PowerPoint that you'd like to have everybody look at.

JENNIFER CARTER: Great. Well, good morning, nice to see you all. Good morning, Chairwoman Howard and members of the Health and Human Services Committee. As you know, my name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I'm serving as the Inspector General of Nebraska Child Welfare. Thanks for inviting me to testify today. What I was hoping to cover is our annual report, our recently released report of-- a special report on investigations of a death and serious injury following a child abuse investigation. And then I'd like to just share a little bit about our continued efforts to monitor the YRTCs and Saint Francis Ministries and the contract in the Eastern Service Area. So, as you know, the Office of the Inspector General provides accountability in Nebraska's child welfare and juvenile justice system through independent investigations, identification of systemic issues, and recommendations for improvement. So I did-- I do have a PowerPoint on our annual report and I tried out sharing it last night and it worked, so I'm going to hope that it works this time. Can you see that? Is that available to you all?

HOWARD: Yes, we can see it.

JENNIFER CARTER: OK, great. All right, so here we go. So one thing to just recall is that the OIG investigates complaints and wrongdoings by agencies: misfeasance, malfeasance, deaths and serious injuries,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

sexual abuse, and other critical incidents involving youth and then any other systemic concerns that are raised to our office. We do release an annual report that needs to include data on and highlights of our current critical issues, a summary of the intakes we've received, completed investigations and any other summaries of reports that we've released during the year. We do like to also include information on current issues or things that we're watching or issues that we think might be coming up. And this year, that was the YRTCs, not surprisingly, and also in the Children and Family Services area, caseloads in the Eastern Service Area contract. In terms of the Youth Rehabilitation and Treatment Centers, we have-- and I'll talk a little bit more about this, but we have initiated a full investigation, as the committee is aware, into the crisis that arose and, and what led to the crisis in Geneva up to August 2019. We have completed that investigation and, and sent that to the department yesterday. They have 15 days to respond, by statute, so-- but we did-- we have gotten that completed. And then over the course of the last 16 months, the office has been watching the kind of constant state of change within the system, which I know you're all aware of, escapes and assaults, staffing challenges, leadership changes, two different business plans, and then the transfer of the chemical dependency program from the Hastings Regional Center to Whitehall in Lincoln. We did have an opportunity, which we appreciated, to testify in front of the YRTC Oversight Committee. And there, we talked in more detail about the work that we've been doing and also recommended that there not be any further disruption in the system or major sort of structural changes because I think the inst-- we have been concerned about the instability and sustained instability in the system over the course of the last year. So without an actual long-range, true planning process, we wanted to-- we were recommending that sort of we let things stabilize and quiet down, so we appreciated the ability to speak to that. On the Children and Family Services side, HHS has made some real improvements on caseloads and meeting the caseload standards in statute over the last eight years. Two of the service areas, I believe, are at 100 percent. One is at the low 90s and one is at 88 percent, but overall, the state has gone down in the last fiscal year from 92 percent compliance to 80 percent, and that is largely driven by the Eastern Service Area and St. Francis' ability to meet-- or inability in this case to meet their caseload standards, which have generally been hovering in the mid-40s percent. There was, just recently released, the latest caseload standards and I believe they are now up to 57 percent. But when you look at the state as a whole, then it sort of brings the, the entire state's caseload standards

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

down. So that was one thing we have been watching. In terms of data, we-- as I mentioned, we-- the OIG can only do or, or we get our direction from all the information that we receive, so-- and that is largely through critical incidents, which we receive from the department and probation, and that is generally around deaths, serious injuries, sexual abuse. Oftentimes, it's broader than that, which we really appreciate because then we can really understand what's happening in the system. So we received 198 critical incidents in fiscal year '19-20, 179 complaints. And these are, you know, foster parents, bio parents calling us, other people involved in the system who just call-- either call or we have a form on our website or emails that they can send to us. And we can do a preliminary look at that and that helps us identify more systemic issues if we're seeing trends. We also receive some requests for information and we receive grievances. We have received seven in fiscal year '19 and '20. I think we've received more than that in this year because they've, they've made that even more accessible, I believe, at the department, so-- in terms of what they have on their website. And then we also had four alternative response reports to look at. In terms of the kinds of things we hear, the critical incidents, we received most of them from the department; 36 from probation and some from service providers. Those are largely around sexual abuse, escapes, suicide attempts, deaths, medical issues, those types of-- that's the sort of bulk of what we hear, so this gives an example. And all these charts are in our actual annual report. In terms of deaths and serious injuries, we are required to investigate those if there has-- they have happened when there has been contact with the system. We are not required to investigate deaths that happen by chance, so, for example, we do receive critical incidents if there is a death or serious injury at a childcare because the department licenses childcares. But, you know, that's a-- an area in which sometimes those are things that have happened by chance, and so that's not something we're obligated to investigate. We did receive 22 reported child deaths in fiscal year '19 and '20; only two of them had sufficient contact or involvement with the child welfare or juvenile justice system to allow us to open an investigation. The two were completed suicides through Probation. And I just will just say a quick note that we have not been able to do a full investigation on those. We continue to have some discussion and disagreement with Probation in terms of how those investigations can be conducted and whether we can do them within our Inspector General standards. And so we have not actually been able to move forward on those. We did hear-- get seven serious injuries reported in '19 and '20, but also did not open investigations on those because they did

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

not have real contact or involvement in the child welfare system. And the great news here is actually that, as I understand it, in fiscal year '19-20, because of course I wasn't actually in the office during this time, we did not receive a report of a death from the department that we would have to investigate. And then we do-- as I mentioned, we get complaints from the general public on all manner of things. And then those usually-- these are sort of the areas that we hear from: placement concerns, child well-being, things happening with initial assessment, which is generally the initial sort of investigation stage, ongoing case management, contact and visitation, those types of things. So those are our main areas, or it was in fiscal year '19-20. We are also by statute required to review and investigate critical incidents and complaints related to alternative response cases. So we did have four and we did look at those, but none of them rose to the level of requiring a full investigation. However, we are required to put them in the annual report. So you have all of those to look at, if you like. We did also-- in terms of investigations that we completed in fiscal year '19 and '20, there were two. One was a serious injury of a seven-year-old due to abuse and neglect within 12 months of family involvement in a noncourt case, and that full investigation is in the annual report. I would say some highlights there, we did make several findings and several recommendations in that case and there were some extra complications. Maybe complications isn't the right word, but one of the findings and recommendations was around how to handle a case when one of the parents being investigated has knowledge of how the child welfare system works. So in that case, this-- one of the parents had actually worked for a private provider and so maybe understood how to talk about things in a way that might give the caseworker a sense that, that things were maybe more fine than they were. And we also had some recommendations about how to handle a noncourt case and how to get, sort of, parents documenting their agreement or lack of agreement in, in doing things. The other one was a serious injury of a five-month-old and that-- we had no systemwide recommendations in that case, which does happen. Sometimes we do an investigation and then decide there isn't really anything that we can recommend systemwide to be done, but those full investigations are in the annual report. We also do a juvenile confinement report, by statute, each year and did that for fiscal year '18 and '19, and our new one will be coming out soon. But over the past three years, what our finding was is that there's been limited changes in terms of decreased reliance on room confinement. And we have noticed there is some subjectivity in the interpretation of the statute and when somebody-- one facility thinks something has to be reported as room

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

confinement and sometimes even within that, when different employees need to, so how they're interpreting it. So some of our recommendations were to-- if there's a way to standardize that so everyone's interpreting the statute in the same way, it would make it easier to compare, at least even within a same facility, compare year to year. We do have to track our recommendations over the course of 2016 to 2020 and that is in the back of the annual report. So that's everything we've recommended and whether the department or Office of Probation, if there's some of those, have accepted, rejected, or asked for modifications on those recommendations. And then we show what progress is being made, if it's been completed, if they're still working on it. So, so that is our main-- I think I can stop sharing my screen now. That's the main update on the annual report. I do-- I'm happy to stop for questions now, but I-- if-- I thought maybe I should keep going, or whatever you prefer, because I have a few other things to mention.

HOWARD: Let's have you finish everything that you'd like to share and then we can go to questions.

JENNIFER CARTER: Perfect. OK. The other thing I just wanted to mention is what we call the initial assessment report. This was actually completed in August, but released to the committee last month. And what we did there is there were-- there was one death and three serious injuries of child's-- children that were-- had been involved only in the initial assessment phase of the kind of child welfare process, so-- and between June 2016 and June 2019, we received four reports, those four reports. The-- all the children were under the age of five, so these were two toddlers and two infants and they had been the subject to a child abuse and neglect investigation sometime in the 12 months prior to the critical incident to their-- to the one death or the serious injuries. And the initial assessment was HHS's only involvement in those cases. In three of the four cases, the child was found to be safe and at a moderate risk for future maltreatment, be-- and so in that case, it may not have been even offered a voluntary case in those cases. And in the fourth case, the child was found safe. The initial assessment had not yet been completed before the critical incident happened. And what we found in that-- those cases were that there were some trends, that complex family dynamics had not been recognized, that a CPS history was not identified, and protective parenting capacity, as we call it, was not corroborated outside the family unit. So the parents were saying they had an ability to protect the child, but we-- the investigation was not sort of corroborating that with people outside the family unit. So our findings were that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

child vulnerabilities were identified but not appropriately taken into consideration. We didn't see them documented. And, and those are things like-- these are very young children, so the toddlers may have been verbal but couldn't leave, protect themselves, leave the situation, ask for help, and obviously the infants could not. Secondary caregivers were not thoroughly investigated prior to the critical incident. So as I understand it, the Structured Decision Making tool has sort of a, a narrow description of a secondary caregiver, which may work for that tool, but oftentimes there are other people who have very regular contact with the child, maybe living in the home, and they were not looked at as closely. And in actually three of the four cases, it was the secondary caregiver who was involved in the death or the serious injury, and supervision of the investigation and assessment process was insufficient. So findings were to enhance some tools specific to examining secondary caregivers in investigation, also to provide training and tools for workers to better evaluate drug and alcohol use and ascertain whether the caregiver can really give safe care to the child-- in two of the instances, drug use was denied, but testing was not available and-- but then drug use was admitted to after the critical incident-- also to provide educational and community resources to the families at that point in the initial assessment process, which we do an alternative response and we do a-- even in a hotline case that is not taken, doesn't meet definition, there would-- there would be referrals, so this-- would align that with the other processes in the child welfare process, and also to conduct a work-study of Child Protective Services supervisors. All of these recommendations were accepted by the department and it's been great. I've been having continuing, ongoing conversations with the CFS director, Stephanie Beasley, about their progress on these recommendations. So those are our two main reports and I would be remiss if I didn't acknowledge that these were done before my tenure and so it is just to the good work of the office. And I do want to thank the staff in the Inspector General's Office who do the bulk of the work on the investigations. Sharen Saf and Sarah Amsberry, they, they really do the work. They take this mission seriously and they take the work seriously and they're a great asset to the office and to the state, so I do want to mention that, and I'm grateful to get to work with them. So some quick-- just two quick updates on the YRTCs and Saint Francis. On the YRTCs, we, as I mentioned, we completed our report, so we're awaiting that response. And I think I noted some of the other things that we have been following in our annual report. I would like also to note that related to the long-range planning, which we have been hoping to see, that we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

are really pleased that the department has started that seriously and in earnest and we are grateful to be a part of that. So we've been having regular two-hour Zoom meetings trying to figure out sort of the long-range vision and then to create the plan that was outlined under LB1140. I also wanted to note that the challenges that the facilities have been having due to COVID, they, you know, have had fluctuating amounts of COVID in the YRTC's, particularly in Kearney. The good news is that as of last week, I have not received an update, but as of last week, they had no positive cases of youth and a more limited number of staff that were positive. So that was good because there was a time at which they had, I think, about 11 youth at one time and they've had several, you know, over the course of the last many months. We have appreciated that the OJS administrator and the facility administrator at Kearney have both been keeping us sort of up to date. And I get-- have been getting notice as soon as they know somebody is positive, which is really helpful to know how they're handling it, and then we've had good conversations in general about how they were handling that, so-- and my understanding is they've been working with Twin Rivers in Kearney and other public health departments, so that is helpful. We did request a few times that maybe having a more detailed written protocol so that there was, you know, was-- some parts of it were standardized would have been helpful for them, but they were, you know, talking with the public health department as each issue arose, and they did have to have some flexibility in how they handled it, depending on how many youth they had positive at a time. I also wanted to mention that the new reporting requirements for the YRTC's under 43-4318 became effective on November 14. And as the statute allowed, we had a conversation with the OJS administrator and the compliance administrator for the YRTC's, and we have sort of figured out the parameters of the terms and how things would be reported under that, so I appreciate that and look forward to getting that information. I think that will be very helpful. In terms of Saint Francis, we obviously continue to monitor the performance of Saint Francis under the Eastern Service contract. There was-- the latest quarterly contract monitoring report was released and I only had a chance to review it briefly. It does look like, in the good news, there are several areas where Saint Francis does seem to be successful and that's encouraging. But as we noted in the annual report, there continues to be a really significant problem with caseloads and meeting caseload standards. There was some improvement last quarter. The very latest-- I believe it's monthly-- report showed that Saint Francis is now at 57 percent in meeting caseload standards, but they have been the contractor in the Eastern Service Area for over a year.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

And HHS has put quite a good bit of time and personnel into working with Saint Francis, trying to help them improve their performance, meet the contract terms, and so we are concerned that we haven't seen greater improvement at this point. We are also a little bit concerned that one of the issues that they faced were HR issues, that they had not properly done background checks on many-- as many as 27 or more workers. And so I believe most of that has been resolved, but, but that was also a concern. A bigger issue, as you may have heard, is that there are-- Saint Francis Ministries, nationally, the headquarters in Kansas, is having some difficulties. The CEO and president there and the former COO were recently fired after an internal investigation this fall. There was a whistleblower complaint alleging a lot of financial mismanagement, so we are obviously following this very closely. I mean, the OIG was born out of the last time that there was an attempt at privatization in child welfare and a lot of the providers had financial difficulties and collapsed. And so we obviously don't want that to be happening here, so we're trying to figure out how much of the operations are tied between the head-- the national group and the local and the Nebraska operations and making sure there's financial stability there so that they can continue their operations in a way and continue to serve children as we need them to in the Eastern Service Area, so we are continuing to look at that. Upcoming, we'll be releasing our juvenile room confinement report in the next week or two and we obviously continue to work on any death, serious injury, or other critical incidents we need to investigate, and continue to monitor the system as a whole. So I appreciate the opportunity to update you and I'm happy to answer any questions.

HOWARD: Thank you. And I just-- oh, yes, I-- yes, there are questions. I just had a point of clarity. I reviewed the Saint Francis report last night, as well, because I just-- it just got posted. But I saw that they were only 46 percent in compliance with caseloads and I heard 57 percent, so maybe could you double check that, the 50--

JENNIFER CARTER: Yes, with-- and I was seeing a-- as of October, so I think the contract monitoring was for the-- I'm trying to remember which quarter that was because I read them both. But then I saw a-- an, an October caseload management report, which I-- because I think they do those monthly.

HOWARD: Right.

JENNIFER CARTER: And this one said an average, an average, if you look at I-- ongoing and, and-- is at 57 percent, so--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Yeah, I was-- I-- because the last-- the, the last quarter it was 41 percent.

JENNIFER CARTER: Correct.

HOWARD: This quarter it says 46 percent on page 5 of the report. I only mention it because I think we're going to talk about it a little bit more this afternoon, and so I want to make sure it's accurate or is--

JENNIFER CARTER: Yeah, I can take a-- yeah, I'm happy to take a look and I can show you what was sent. So there is some-- either-- it's either conflicting or they're different--

HOWARD: [INAUDIBLE]

JENNIFER CARTER: --timelines, so--

HOWARD: Yeah, because this, this is for July, August, and September, so maybe it's--

JENNIFER CARTER: I think that's, that's what I was thinking when I was reading it. That was July, August, September and they-- and then they improved by the end of October--

HOWARD: OK.

JENNIFER CARTER: --a little bit.

HOWARD: OK. All right. If you could find that, that'd be great.

JENNIFER CARTER: Yes, I'll email that to you.

HOWARD: Perfect. All right. OK, now we're ready for questions. Senator Arch.

ARCH: Just a follow-up question to what Senator Howard mentioned. So the compliances, you, you are either in compliance or not in compliance and that's the percentage of compliance. But that compliance could be one case off or 30 cases off, am I, am I correct in that?

JENNIFER CARTER: I might have to-- I'm sorry, I'm looking at it over here on my other computer.

HOWARD: Are you asking about caseload sizes?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

ARCH: Yes, caseload, caseload sizes. So you're either in compliance or you're not, and that's that percentage that we're talking about.

HOWARD: Right, the compliance is based on the worker--

ARCH: Right.

HOWARD: --so is the worker themselves in compliance? So, yes, potentially they could be one case out or they could be 30 case-- cases out.

ARCH: OK. All right.

HOWARD: But it's based on how many of your workers are in compliance.

JENNIFER CARTER: Right. So that's my understanding that only--

ARCH: I see.

JENNIFER CARTER: --46 to 57 percent of their caseworkers are in compliance with the caseload.

ARCH: OK. All right. Thank you, that clarifies that. Question on room confinement in your, in your report, what facilities are reporting to you? What, what facilities do you include in that room confinement report?

JENNIFER CARTER: So they are obviously juvenile detention facilities, the YRTPs, some of the substance use and treatment facilities. And then there are-- sometimes the, the P-- and my-- and I'm a little bit-- I can get a clarification for you if I'm wrong on this because this is-- I've just done the first-- been a part of the first one for myself and this was last year's. But there are some-- some of the private providers do provide information to us. Others don't because some of them just provide the policies that say we're not allowed to use it under our licensing--

ARCH: Right.

JENNIFER CARTER: --so there's nothing to report, so--

ARCH: Yeah, I know there was a, there was a discussion of PRTFs being treatment. That's not room confinement, but at--

JENNIFER CARTER: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

ARCH: --at-- at any rate, I guess the point is it's not just DHHS. It, it's, it's--

JENNIFER CARTER: Oh, no.

ARCH: --it's juvenile services as well. Now--

JENNIFER CARTER: Absolutely.

ARCH: --as I, as I recall in our oversight committee for the YRTC, we're seeing a decline in room confinement in the YRTCs, so it will be interesting to track that going forward and see if that holds, so.

JENNIFER CARTER: Yep. Yes, I think that, that is right and, and, and we've-- you know, but we're getting a lot of information from Lancaster County--

ARCH: Sure.

JENNIFER CARTER: --Douglas County. Those, those are the main places that I think we're seeing the use, so--

ARCH: Right. OK, thank you.

JENNIFER CARTER: Yeah.

HOWARD: Senator Cavanaugh.

CAVANAUGH: Thanks. I have a room confinement question as well. You had mentioned the standardized language. Is there something that your office has in mind that we should be looking to, to do-- to use for standard language for room confinement?

JENNIFER CARTER: I think some of it-- I can certainly follow up with you on that. I think some of it is we, we actually did create a form that we tried to send around to say this is the format we're going to need the information in. But some of it are issues like-- I'm trying to think of a good example where even within, workers might not consider something room confinement or they think there's an exception where another person doesn't give this an exception or they just log it. They just log this room confinement, but under two different reasons within the same facility. And then obviously different facilities can interpret it a little bit differently and then sometimes how it's being used. So if it's-- you have to report it over an hour. Is a youth in for 50 minutes and then they're out for ten,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

but back in then, then it's bedtime and now they're in for another eight hours? So because it's sleeping time, they don't have to count it and they only counted the one hour, but in reality, they were in their room alone for ten hours except for a ten-minute break. So those are the types of things where public health, the-- these facilities that public health oversees, or the Jail Standards Board for the correctional facilities, if they, if they could create some standardized language among their own facility or standardize understanding, I think that might be-- that was what we thought might be most helpful and what has been recommended. But, but we can certainly think about whether there's statutory language that we would think would be useful.

CAVANAUGH: Yeah, and have they responded that they would be willing to do that? Because that would obviously be the ideal solution.

JENNIFER CARTER: So far they have not done that, so-- but I think we can continue those conversations, so.

CAVANAUGH: OK.

JENNIFER CARTER: It just is harder to get a real sense of--

CAVANAUGH: Yeah.

JENNIFER CARTER: --how to compare in that, in that situation, so--

CAVANAUGH: Yeah. OK, thank you.

JENNIFER CARTER: Yep.

HOWARD: Other questions from the committee?

B. HANSEN: I got a question, Sara.

HOWARD: Senator Hansen.

B. HANSEN: Yeah. Jennifer, it's good to see you again.

JENNIFER CARTER: Yeah, you too.

B. HANSEN: And I-- just, just trying to put the information that you provided into context. How do we compare with the numbers that you provided, with, like, injuries and deaths compared to other states, compare to other states per capita?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

JENNIFER CARTER: That is a great question and I don't know the answer, but I can go ask. I don't know if we ever do that comparison or if we're just sort of monitoring our own, you know, year to year. And that can be a challenge, too, I think, depending on, again, how-- what number of-- how broadly people are considering critical incidents. We certainly can compare deaths to deaths and serious injuries to serious injuries, but as I said, sometimes we get critical incident reports that are-- don't fall into those categories, but something serious happened. We really appreciate receiving them because it gives us a sense of what's happening in the system, but if I-- I wouldn't want to use it as an aggregate of critical incidents because those can be all very different. But in terms of comparing particular areas of critical incidents that we receive, I will have to ask if they've ever done that comparison to other states or not or if we just sort of look at our own trajectory.

B. HANSEN: OK, thanks.

JENNIFER CARTER: Yeah.

HOWARD: And I would, I would note for the record that not every state has an inspector general that looks at critical incidents or collects critical incidents. I was talking to a rep in Kansas and he's actually looking at stealing our inspector general statute because they don't have one and it's-- ours has been working really well for eight year-- how long has-- ten years, the Inspector General has been around?

JENNIFER CARTER: [INAUDIBLE] like eight or nine, yeah.

HOWARD: Yeah. One question that I had, when you're looking at the initial assessment issues, are there-- do you feel as though those have all been addressed by-- within the agency? Because we know that initial assessment is one of those sort of harder areas for caseworkers, especially if they're tasked-- if you are in a service area that's more rural, if they're tasked with doing initial assessment and ongoing casework at the same time, then sometimes the IA work falls to the wayside. So do you-- are you seeing an improvement on the department side in initial assessment?

JENNIFER CARTER: So I don't know if I have a comparison for, at this point, what they're doing in terms of seeing an improvement within initial assessment. I do know that they have been proactive and there is progress on our recommendations. And they are looking at things like whether they have a supervisor academy because I think-- and, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

more intensive training is something I know they're considering because having a supervisor there to help a new caseworker or even a not-so-new caseworker assess what's happening in the initial assessment, I think, is, is really key part of it. And so I think having some of those-- they are moving forward on several pieces. They have moved forward on the training piece, I believe, in terms of how you handle secondary caregivers and things like that. So there is progress for sure and I-- and that has been one really positive thing is there's been a pretty open dialogue with the CFS director about those and conversations with our office to better understand what our recommendations were really getting at. And so I am hopeful that we'll see progress in general. I can say I don't-- I would double-check this, but I don't believe we've received a critical incident related to IA recently, so to the extent that can show progress, that is something.

HOWARD: Perfect. And then I wanted to ask, do we have a date certain for the YRTC report?

JENNIFER CARTER: So we had-- it's 15 days under the statute to respond before we can finalize our report. We did-- I think we probably did not have to consider the holidays, but we did. So we have asked for their response by January 4 and so we will finalize it after that.

HOWARD: Thank you. All right, other questions? All right, seeing none, thank you for visiting with us today.

JENNIFER CARTER: Thank you.

HOWARD: Our next-- our person to brief us will be Monika Gross from the Foster Care Review Office. Welcome, Monika.

MONIKA GROSS: --unmute myself. Good morning, Senator Howard and members of the Health and Human Services Committee. My name is Monika Gross and that's spelled, first name, M-o-n-i-k-a, last name, Gross, G-r-o-s-s, and I am the executive director of the Foster Care Review Office. The Foster Care Review Office provides a level of oversight, actually, on two levels: the individual case level and the systemic level. Individual case files are reviewed with the needs of each specific child in mind. And if the system is not meeting those needs, the FCRO advocates for the best interests of the individual child, either through the court case, through our local board meetings, or in one-on-one conversations with DHHS, guardians ad litem, or other advocates. Simultaneously, the data that's collected from every

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

individual case file review is used to create a systemwide view of changes, successes, challenges in the complicated world of child welfare and juvenile justice. The FCRO's role is to move the system forward, to make improvements that best meet the needs of all children, and to ensure that children are better off when they leave out-of-home care than when they entered. The recommendations in our annual report are based on careful analysis of our data and we look forward to the opportunity to work with our system partners to improve the lives of Nebraska's most vulnerable residents. In 2020, our annual report contained a number of recommendations that we invited the system stakeholders, Children and Family Services and the Administrative Office of Courts and Probation and Juvenile Probation, to respond to those recommendations. And our December 1 quarterly report includes those responses as part of the report. We did, much like the Inspector General indicated, we did receive a very thorough response from DHHS and CFS, and that is included verbatim in our quarterly report. And we're still in the process of kind of analyzing those responses to see just how responsive they are and whether it's something that we can then check off that recommendation in our next report because we have repeated several recommendations over the last two or three years. I'm going to share some of the data with you in our annual report. In fiscal year 2019-20-- so our annual report covers June 1, 2019-- or July 1, 2019, through June 30, 2020. And much like the Inspector General, I was not here for most of that time, so the data would have been collected, for the most part, before I, before I assumed this role at the FCRO. So the Foster Care Review Office tracked information regarding the experiences of 7,096 children who were removed from their homes and put into state custody or care through the child welfare or juvenile probation systems. This tracking is done through the use of an independent data system with collaboration from the Department of Health and Human Services and the Administrative Office of Courts and Probation. Every episode in care, every placement change, every worker change is tracked in that system and relevant court information for each child is also monitored and entered into the data system by our FCRO staff. This allows us to col-- to look at large-scale changes in the system and select children who will then be reviewed by our citizen review boards based on their age, length of time in care, and upcoming court hearings. Once a child is selected for review, our system oversight specialists track that child's outcomes, well-being indicators, and prepare a summary for our local boards. Local board members, who are community volunteers from all of your communities across the state, they successfully complete background checks and some required training. And then they conduct

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

these case file reviews at our local board meetings, making required findings and recommendations to the court and legal parties. In fiscal year '19-20, 325 local board members serving on 53 local boards conducted 4,162 reviews of cases involving 3,216 DHHS wards in out-of-home care or trial home visits, including 26 reviews of 26 youth placed at a YRTC at the time of review. So these would be youth at the YRTC who were wards of the state, who were DHHS wards prior to going to the YRTC. They also conducted 277 reviews of 274 youth in out-of-home care supervised by the Office of Juvenile Probation that had no simultaneous child welfare system involvement, including 50 reviews of 50 youth placed at a YRTC at that time. So there were a total of 76 youth at the YRTC who were reviewed. Federal and state law have established three goals for children in out-of-home care: safety, permanency, and well-being. And although no part of that triad is more important or more necessary than any of the others, over the last two years, the federal Children's Bureau has emphasized child and family well-being as it's begun implementing the Family First Prevention Services Act. And the FCRO does look at child well-being indicators as part of those initial case file reviews. Our annual report and our quarterly, quarterly report contain a number of graphs, tables, and maps depicting the current state of out-of-home care in Nebraska. The annual report is-- culminates in, in June 30, 2020. The quarterly report is as of September 30, 2020. I can try to share my screen and see how this works. Can you all see that?

HOWARD: Yes, we can.

MONIKA GROSS: Can you see the map? OK, great. So, so this-- the map of Nebraska shows the number of court-involved Nebraska children in out-of-home care through the child welfare system. This is focused only on DHHS wards who are out of home and not any of the probation-involved youth. But it shows it by county of jurisdiction and service area as of June 30, 2020; 48 percent of those youth are from the Eastern Service Area, which is-- consists of Douglas and Sarpy County right here, and 52 percent are from the rest of the state. So that kind of shows you where-- geographically where the children are from. The age of those DHHS wards in out-of-home care on June 30, the largest percentage, 40 percent, are 0 to 5, so it's, it's a very young population; another 33 percent are ages 6 to 12, and then nearly 27 percent are our teenagers. The race, race and ethnicity of DHHS wards in out-of-home care on June 30 shows that white, non-Hispanic children make up just over 68 percent of children in Nebraska, but represent only 45.5 percent of children in out-of-home care, whereas Hispanic children make up 17.8 percent of the Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

population but represent 20 percent of children in out-of-home care. Black or African American, non-Hispanic children make up approximately 6 percent of the state population, but 18.8 percent of children in out-of-home care. Native American children, likewise, represent 1.1 percent of the statewide population of children, but represent 3.9 percent of HHS wards. So you can, you can see in detail here the disparities, the overrepresentation of Hispanic, black, and Native American and also, also multiracial children in the child welfare system and the underrepresentation of white children. The child welfare population in Nebraska remained relatively stable throughout fiscal year '19-20, lodging only a 1.4 percent increase from July of 2019 to June of 2020. Despite a global pandemic and school closings and other things that you might have heard, we know hotline calls were down, but the population remained fairly stable. The Northern Service Area is the only region of the state that saw a decline in the number of state wards and their decline was 13.4 percent. All other service areas experienced increases in the number of state wards, ranging from 1.9 percent in the Southeast Service Area to 10.5 percent in the Western Service Area. And right here, this graph, figure 4, shows the average daily population, month by month, over the fiscal year. So you can see for most of those service areas, the different colors represent the different service areas and you can see on the map where they're located. Those populations remain fairly stable. You'll see that the Eastern Service Area began the fiscal year in July with an average daily population of 1,600 and ended the fiscal year in June of 2020 with an average daily population of 1,621. Figure 5 shows the changes in-- the percent change in the average daily population by service area and also showing the actual numbers there. You'll see that, again, the Western Service Area had the largest increase, 10.5 percent. The Eastern Service Area saw an increase of 2.1 percent. Changes in the population of children in out-of-home care and trial home visit can be influenced by many factors, including changes in the number of children entering the system, changes in the number of children exiting the system, and changes in the amount of time children spend in the system. The trend for exits has remained relatively stable and the trend for entries has decreased during fiscal year '19-20. The COVID pandemic notwithstanding, some patterns tend to recur. So there are recurring patterns that we see year over year, such as more exits at the end of the school year, and that shows up right here-- I'm sorry, right here in April and May. And then prior to holidays, during reunification or adoption days, there's usually more exits and more entrances after school starts. So you kind of see that right here, in August an increase and then again in October an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

increase. OK, that went better than I expected. As outlined in more detail in our annual report, we know that the following ex-- the following regarding the experiences of children and families involved in the child welfare system: the most common adjudicated reason for removal remains neglect, that's 64 percent; parental substance abuse, 40 percent; and domestic violence, 14 percent. And it's important to remember that neglect is a broad category of serious parental acts of omission or commission, resulting in the failure to provide for the child's basic physical, medical, educational, supervision, and/or emotional needs. Children continue to be placed in family-like settings at very high rates, 96.4 percent, which is a positive indicator that children are placed in the least restrictive setting that's consistent with their needs. And this is really an area that Nebraska should be very proud of. We do not make a huge use of congregate care settings like some other states. We do place a high number of children with relatives and kin. So approximately half of all children that are placed in a family-like setting are placed with relatives or kin. And this is important because it helps reduce the trauma of being removed from their, their families and they are, they are able to live with people that they know and people who love them, people that they trust, and that, that's always helpful. Of concern, though, is that only 13.8 percent of these children were in a licensed relative placement. So that's one thing that's in, in the FCRO's recommendations. We would like to see an increase in the number of relative and kinship homes who are licensed. That also impacts the ability of the state to, to receive Title IV-E funding reimbursement from the federal government. Placement changes continue to be a concern: 10.5 percent of children in the 0 to 5 age range have had four or more placements, nearly 28 percent of children ages 6 to 12 had four or more placements, and then 57 percent of the teenagers had four or more placements. Based on our reviews of those children's cases, 15 percent of those placement changes were done at the request of the foster care provider. So we would like to see DHHS and the foster care agencies really do a better job of stabilizing and maintaining placements and providing services in those homes, and especially, I would say, in the relative and kinship homes, to help maintain those placements, if at all possible. Another area of concern with regard to placements is that placement reports that are made to the FCRO from DHHS and other parties were incomplete or inaccurate for 37-- 34.7 percent, so almost 35 percent of the children's cases reviewed in fiscal year '19-20, which means that, that either the documentation is not up to date or it's not being fully documented. And the problem with that is that if there's a sudden or unexpected

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

change in caseworker, for example, that new caseworker is going to look in the documentation system, in the N-FOCUS system to see where that child is placed. And if it's not up to date, they, they may think that the child is placed in a foster home in Millard when actually the child is placed with grandparents in North Carolina. And so it, it could really be disastrous in the event of a natural disaster, such as a tornado or a flood, when it becomes necessary to identify where those children are placed and check in on the well-- welfare of those children in the immediate aftermath of such a disaster. If you don't know where over a third of your children are, if you don't have that accurately documented, that's a problem. And so that-- that's something that we are working with DHHS to, to, to see that that-- see some improvement in that area because that's really critical. The law requires that those placements be documented within 72 hours and, you know, we get a nightly, we get a nightly data transmission from N-FOCUS. And so if those are updated, then we can be fairly certain that we have accurate information if they're updated within 72 hours, but they shouldn't be off by 35 percent. Caseworker changes remain all too frequent for children in foster care. Having more than four caseworkers is considered unacceptable and causes significant permanency delays. As of September 30, 2020-- so this would be in our most recent quarterly report-- depending on the geographic area, between 9 percent and 31 percent of the children in Nebraska in out-of-home care have had five or more caseworkers since their most recent episode in care. The, the Eastern Service Area, which is the largest service area, now-- is now being served by Saint Francis Ministries, has the highest proportion of children with five or more caseworkers. And, you know, some of those may have been from the previous contractor, PromiseShip, and DHHS, but that's 31.1 percent. The Northern Service Area, which had the highest percentage two years ago, has the second-highest percentage of children with five or more caseworkers and that's 19.6 percent. So that, again, I think that's an area that also is kind of interrelated with the caseloads that-- the caseload sizes that we're seeing because high caseloads lead to high turnover. Many children experience multiple episodes in foster care. On September 30, 2020, approximately 23 percent of DHHS wards experienced more than one court-involved removal from their home, including 8.8 percent of children five or younger. So that means that they're, they're spending time in foster care, they're going home or achieving some other form of permanency, and then they're coming back into care. So that's, that's almost a quarter of the children that are currently in out-of-home care. For over half of the children in out-of-home care whose cases we reviewed, their cases are not making

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

significant progress; 24.1 percent of the children, there was no progress noted toward their permanency goal; and for an additional 27.7 percent, progress was minimal. And there are various reasons for this that are discussed in detail in our annual report, and so, again, that's another area of concern. Either we don't have the right interventions, we're not using those interventions at the right intensity or cadence, or we're not measuring things properly. And so, so I'm not really sure, as I sit here, which of those plays a role, but there's probably a little bit of everything involved in that. Some has to do with-- it might be that services are not being provided or it may be that parents are having difficulty accessing those services. The role of the pandemic, I think that remains to be seen. I think it's too soon for us to tell what role that may have played in all of this. Almost half of the children reviewed, 48 percent, had a mental health diagnosis at the time they were reviewed. Additionally, many children had one or more chronic, cognitive, or physical health impairments. Only 35.2 percent of the children reviewed who were eligible for developmental disability services were receiving those specialized services funded through the Division of Developmental Disabilities. When those children-- or when those services are required and they are not funded through DD, then they are funded with child welfare dollars. So we had a number of key recommendations, and I won't go through all of those with you, but some of the things that have been repeated from previous, previous FCRO annual reports' recommendations we have continued to include. And that includes conducting a legislative study examining changes needed to the juvenile court jurisdiction statute, found at Nebraska Revised Statute Section 43-247, and ways to improve the prosecutorial model used in Nebraska to effectively address the needs of children and families. This study should include the scope of authority of the court in delinquency actions to require parents to participate in services, the legal definitions of a no-fault abuse/neglect filing and a status offense filing, the legal definition of a juvenile mental health commitment filing, and ways to achieve consistency across the state in the filing of juvenile court actions: enact legislation amending Nebraska statutes regarding the legal basis for the termination of parental rights and the parties responsible for filing that legal action; explore strategies to improve or increase collaboration and cooperation between DHHS and juvenile probation to enhance services and improve outcomes for dually involved youth. We know that these youth have, have increased needs when compared with their child welfare-only counterparts. And I'm happy to report that I have begun conversations with CFS Director Beasley and Probation Administrator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Kari Rumbaugh to see how our three agencies can work together to study this population of youth and to see if we can come up with some ways to improve the outcomes for those youth, particularly in mental health and education outcomes. We have also made recommendations for the last couple of years about voluntary services, noncourt voluntary services, and we're recommending that CFS establish clear and concise policy and procedures with regard to effective safety planning to include expectations for the families and mechanisms to ensure compliance with the safety plan. This is true whether the safety plan involves a court-involved case or a noncourt-involved case or out-of-home placement or informal living arrangements. And we will continue to follow those informal living arrangements and we've just begun, over the last, oh, three or four months, reviewing those cases with our local boards. Services across the state and access to services continues to be a problem and we have recommended-- we have several recommendations there involving services, including preventive services, out-of-home services, crisis stabilization, recruitment of foster parents, and creation of treatment foster care services and in-home services for foster parents, including relative and kin parents. We also have recommendation, which I mentioned earlier, about requiring licensure for relative and kinship foster homes. Licensure comes with additional training that would be helpful for the relative and kinship placements and being able to meet the special needs of their-- even though they're relatives and children that they know, they do have special needs that, that the relatives might not be equipped, equipped to handle. We're also looking at potential areas for future special studies, in-depth studies. One would be an in-depth analysis of children missing from care, including "missingness" across racial and ethnic groups, and this is an area that is being highlighted through the efforts of researchers at UNO working on the missing Native American women and children project; and then also an in-depth look at youth who are dually involved simultaneously with child welfare and juvenile justice that I talked about earlier; and also a thorough analysis of length of stay for children in out-of-home care, including length of stay across racial and ethnic groups and disparate outcomes for children in out-of-home care across racial and ethnic groups; and then any other current topics of interest that might arise during the next fiscal year. So that's all I have and I would gladly take any questions.

HOWARD: Thank you. Are there questions from the committee? All right, I, I have a couple just to, just to make sure that I'm clear on some of our conversations. We've spoken in the past about the issue of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

documentation and how documentation in particular is, is, is part of your process, right? You go back into the case file and you look at what's in, what's in the case file and make sure that everything's documented appropriately in order for you to be able to monitor how many kids are in out-of-home care and how many caseworkers they've had and things like that. And so when there isn't documentation, it's, it's bad for the data monitoring, but it's, it's also really bad for the, the child if you're not able to find them, right, so if a, if a caseworker picks up the file and says, I'm not sure what's going on with this kid and family. But I-- I'm-- what I'm trying to, to-- what I'm going to ask you to do is sort of parse through what's going on with Saint Francis in terms of documentation versus what's going on with the rest of the state because I-- I'm very interested in sort of how things are going with Saint Francis. And I know that we've spoken about documentation issues in the past with Saint Francis and so I wanted to see if you could sort of drill down your data just in the Eastern Service Area in that regard.

MONIKA GROSS: I, I probably could. I don't know that I have that at my fingertips right at the moment. The, the 34.7 percent, whatever it was that I cited, is statewide. I can tell you that I did look at the, the quarterly performance report. Now I-- now I'm going to-- now, now that I look at this, I'm not sure which report this is, but it is a report that is on the DHHS website on documentation of place-- placement changes in 72 hours. I believe this is in the, the September Saint Francis performance review report. DHHS data indicated, and I'm reading from the page, that Saint Francis case managers improved documenting placement changes from 61 percent in April to 66 percent in May. However, placement change documentation declined in June, going down slightly to 65 percent timely. So what they're showing-- and this is from DHHS data and not FCRO data-- is that 64-- as of June 2020, 64.6 percent of documentation was completed within 72 hours, placement change documentation in the Eastern Service Area. Statewide, they're showing 77.7 percent, in June, was completed within 72 hours. And then they do have it broken down by service area. The goal-- the target is 100 percent, of course, and only one service area, the Western Service Area, was meeting that. Also, the YRTCs were meeting that. They have a separate category. All the other service areas were above Eastern Service Area, but below 100 percent, so ranging from 75.9 percent in the Northern Service Area to 87.9 percent in the Southeast Service Area. So that, that data-- and I can send you this chart so, so the committee members can have it. And I don't know if it-- there may be-- based on Jennifer's testimony previously, there

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

may, there may have been an update since, since this one came out. But I, I can also tell you that in May of 2019 in the Eastern Service Area, documentation in 72 hours or less was at-- right at 80 percent.

HOWARD: And I actually have the same question around the licensed relative placement, the licensed placement. And so that might be something, if you could look into how is Saint Francis comparing in terms of the licensed relative placements versus the rest of the state.

MONIKA GROSS: OK.

HOWARD: And then you noted in your testimony that most of the placement changes are being done at the request of the foster care provider.

MONIKA GROSS: It wasn't most, it was 15 percent. There--

HOWARD: Oh, 15. OK, that's good.

MONIKA GROSS: Yeah, there were a number of reasons, including 13.7 percent were for the reason that the child was returning to a parent.

HOWARD: OK.

MONIKA GROSS: So, so, you know, for purposes of comparison, it's, it's relatively the same amount of children, but I feel like 15 percent is, is too high for placement changes to be done at the request of the provider. And there could be lots of reasons for that, that-- it could be, you know, life changes for the provider, you know, something happens in their life. It could be, it could be the youth's behaviors, you know, which then, what's causing those behaviors and what can we do to stabilize those behaviors?

HOWARD: OK, absolutely. All right, thank you. Senator Cavanaugh, you had a question?

CAVANAUGH: Hi. Yes, thank you. Thank you for being here. I feel like this might be my only opportunity today. I'm not entirely sure who we're going to be hearing from this afternoon from Saint-- about Saint Francis, so please bear with me if you can't answer these questions. I'm kind of just putting them out there, I guess. With the documentation piece, so 66 percent are completed within 72 hours. What does that mean for the other 34 percent?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

MONIKA GROSS: Well, I don't have any data on that, but I think DHHS could probably provide data on that, on how many were completed within what timeframe.

CAVANAUGH: OK.

MONIKA GROSS: So, you know, they might have it, if it's zero to three days, then they might have, you know, three to five days or five to ten days. They could probably provide that kind of data.

CAVANAUGH: Can-- do you think-- I'll have to make a list of questions to send to them since they won't be testifying, but do you, do you think that they-- I guess-- so let me say, I'm concerned that, like, out of every 100 cases, we're losing 34 kids. I'm hopeful that that's not the case, but what's the question that should be asked to get at, to get at that, I guess, is what I'm trying to figure out. How do we find out how many kids are not being tracked?

MONIKA GROSS: Well, and maybe this will, will make you feel better. When, when we discover that there's a discrepancy between what is in the DHHS system-- and so our review specialists look through all the other documentation in the file as well. And so they may see documentation and narratives, for example, that the child is actually placed somewhere else other than what's listed. Then we do contact DHHS and ask them to correct that, but, but what we're measuring is, when we first go into the system, what, what is showing up. So, you know, I guess consider the FCRO part of the checks and balances in that system that we are able to, you know, perform a sort of a quality assurance role, although it does take additional time and, and effort from our review staff to do that and the law does require that those placement changes be documented within 72 hours.

CAVANAUGH: So without those placement changes being documented within the 72 hours and with that being at 66 percent and not complying with the law, does that mean that Saint Francis is not meeting their contracted ob-- obligation to the state of Nebraska?

MONIKA GROSS: Well, I believe that that was a requirement in the contract, but I, I don't know that it's limited to Saint Francis. I don't want to give that impression that it, that it's limited--

CAVANAUGH: Sure.

MONIKA GROSS: --to the Eastern Service Area.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

CAVANAUGH: That's fine. My, my focus is because they are the contract, the only contract, and the rest is under the state itself. And my concern is that I am not able to ask them these questions directly and I'm not able to ask the department these questions directly because they are refusing to attend our hearings on this very important issue. My additional concern it is that Saint Francis is embroiled in some significant concerning behavior in their headquartered state. So I don't mean to put you in the spot of answering for them. I just am trying to, to figure out how we can all collectively get the information we need. And unfortunately, today, you're the only one that is able to provide any sort of guidance on this, so I really appreciate you being here.

MONIKA GROSS: Well, thank you.

CAVANAUGH: And if there is anything that we should be asking of the department or of Saint Francis, please let us know so that we can make sure to include those in our questions to them directly.

MONIKA GROSS: Well, I think, you know, the question would be, you know, what efforts are being made to ensure that those-- that that documentation is being accurately-- you know, so there, so there's is it accurate and is it, is it current, you know, two different things, but related, and we're measuring, we're measuring both. So if I can just step out of my current role and, and just say that, having come from a leadership position in the previous-- with the previous contractor, when you focus on a certain area like placement documentation and you make it an agency-wide focus and every team and every, every employee, you know-- it's not just the case manager. There are lots of support roles that also play a role in this. When you focus on it as an organization, you can make, you can make huge strides in a very short period of time. You know, you should be able to see measurable change within a month if everybody is focusing on it. So I think it, it's something that can be done and it, it's something that has been done in the past and so-- and then, you know, you get to a point where, you know, the target is 100 percent, but if you're, if you're documenting, you know, 90 percent within three days, that's, that's a huge difference between 65 percent and 90 percent, so--

CAVANAUGH: Well, the fact that a year previous, we were at 80 percent with a different provider is, I think, very telling, so thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: All right, other questions from the committee? Oh, Senator Walz.

WALZ: Thank you, and thank you, Monika, for coming today. We really appreciate it.

MONIKA GROSS: Sure.

WALZ: I don't know if you're the right person to ask this question or not, but you were talking about recommendations, so I thought I'd throw it out there. The other night, I met with some foster youth from the youth-- Fremont Youth Council. And over and over again, there was a concern that kids in foster care were not involved in their cases and were not given access to outside resources, should they need help maybe with, if they were currently in foster care, placement problems, and if they had aged out, just resources that were needed. So I was just wondering if that was something that had concern or is a concern and is, is that a possible recommendation as well?

MONIKA GROSS: We did make a recommendation around requiring that youth be involved in their court cases and, you know, this, this is something that's been debated, I think, as long as I've been involved in child welfare, so, you know, 20-plus years, is youth attending their court hearings. And I happen to believe that it benefits the, the youth. It also benefits-- it benefits the court and the legal parties. You know, that judge-- if that judge is having to see that child every six months in their courtroom and watch that child grow up in front of their eyes, it-- I think it really-- it makes a difference in the, in the way they approach, they, they approach the case and all the legal parties as well. There are, there are some who believe that we shouldn't be pulling kids out of school, they need to be attending school, we shouldn't pull them out of school to attend court. My feeling is that, that that child's mind is not going to be on school anyway, you know? Especially the older youth, they know that court's going on. They know that somebody named "Judge" is going to be making a decision that's going to affect their, their life. And actually, one of the positive things that we are hearing is that during COVID-19, when court hearings are being conducted via Zoom, more youth are able to participate and they can participate without leaving school. Everybody is pretty much set up to-- the schools-- to use Zoom. And so it's just maybe a matter of missing a few minutes of class as opposed to having to leave school for the day or half a day. And even for those more remote areas, it's, I think, a great-- it's, it's a great opportunity for youth to be more involved. Now for younger children,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

it's probably-- it's not a great option, but I, I think for the older youth who maybe want to talk to the judge, want to see the judge, have something to say, it's-- I think it's a game changer and it's something that we, as a system, we ought to consider continuing.

WALZ: And then the second part of that question was if, if there's a child currently in a foster care home and there's a problem, there was a concern that there weren't resources that they knew about as to who to call. So I, I was just wondering if that had been a recommendation in the past or if that could be a recommendation. I don't even know-- you know, who, who did-- what is their resource? What is the outside resource for them right now? Who do they call?

MONIKA GROSS: Well, that's a really good question. And the Inspector General is here and I, I would think that's an option for-- definitely an option for youth. You know, a number of years ago, I was involved in a, in a workgroup related to the Strengthening Families Act, I believe it was, implementation that had a grievance subcommittee. And in looking at that, you know, certainly, we could try to come up with the reports that were done by that workgroup. It seems that every, every accredited child-placing agency had some sort of a grievance process. Now how that is communicated to the youth, I'm not really clear about. When I was at PromiseShip, we had, we had a, a program audit department that received grievances. We had an email box where grievances could be submitted. And I can tell you that in the eight years that I supervised that area, we maybe only got a handful of complaints from youth themselves, so-- and I think that when I was part of that workgroup, that was pretty consistent with what was-- what everyone was sharing, that youth weren't, that, you know, they were not complaining. There's also the guardian ad litem. In most cases, children in out-of-home care have a guardian ad litem that they can contact. And again, do they know how to contact their, their attorney guardian ad litem? There are CASA volunteers that are involved in some cases, not every case. That's another option to, to bring those issues. There are also youth court reports, youth reports to the court that can be completed by the youth and submitted to the judge. Oftentimes, the CASA volunteers and the GALs will make those available. Sometimes the case managers will make those available to the youth. So there are different opportunities and maybe it's a matter of, you know, coaching or something, you know, for those youth to, to assist them in, in-- or encouraging them to make those reports.

WALZ: OK, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Thank you. Are there other questions from the committee? All right, seeing none, thank you for visiting with us today.

MONIKA GROSS: Thank you for having me.

HOWARD: OK. And our final speaker today is from the Children's Commission. Welcome, Laura.

LAURA OPFER: Hi, glad to be here. Thank you so much. My name is Laura Opfer, that's L-a-u-r-a O-p-f-e-r. I'm the policy analyst with the Nebraska Children's Commission and I came here in January from the Child Advocacy Center. I've learned a lot over the last year and certainly the challenges that have come with the pandemic. It's been a busy, but a challenging year for the Children's Commission. I also have a PowerPoint presentation, so I'm going to share my screen quickly, make sure you guys can see the same things that I'm seeing. OK, can everybody see the PowerPoint?

HOWARD: Yes, we can.

LAURA OPFER: Great. And feel free to ask me to pause if you guys have any questions as I'm talking. I'm definitely open to answering questions midway or we can take them at the end as well. So you should have received a copy of our 2019 to 2-- 2021 member roster, a copy of our Children's Commission annual report, and then the Foster Care Reimbursement Rate Committee report. I know that one's a little bit lengthy. I'm going to talk about that in the middle of this presentation and would be glad to take any questions. But I'm also going to cover the overall progress of the Children's Commission, our statutory committees, and some new and upcoming things that we're working on. So just as a reminder, the Children's Commission was created in, in 2012 by the Legislature to provide a leadership forum for the collaboration of child welfare and juvenile justice and we've done just that over the last eight years. We've been a part of many reform and plans that have taken place to help strengthen the child welfare system and juvenile justice system as well. So we were previously set to terminate in 2019, but with the introduction of an LR and then eventually LB600, we were able to continue the Children's Commission and establish this as a permanent and unique leadership forum that brings together a great body of stakeholders. Who are we? Just another reminder, we have 26 members that are appointed by the Governor. We have child welfare and juvenile justice, state, regional, and community representatives. So this really is a unique place where all the voices can come to the table to talk about their ideas and put

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

into action some plans to help strengthen the systems. Our executive committee, we have a really great group of five, is Jeanne Brandner with Probation, Lana Temple-Plotz is with the Nebraska Children's Home Society, A'Jamal is with Douglas County-- he's the racial and ethnic disparities coordinator-- Jim Blue with CEDARS, and then Dr. Richard Hasty with Plattsmouth Schools. So we really have a great executive committee that's helping lead the Children's Commission. That's just a little bit about what we are. We do preserve institutional knowledge and that's something that is really important when we look at just turnover and leadership changes over the years. The Children's Commission is a place where we can store that information and really have that history of where we've been as a child welfare and juvenile justice system and help plan for where we're going. Some key accomplishments: we gave roots to the alternative response regulations that were amended last year and foster care reimbursement rates. We'll talk more about that, but we've been a big part of the reimbursement rate reform and the Bridge to Independence and Strengthening Families Act. I also just wanted to say a quick note about the alternative response committee that was created this year as a result of LB1061. That bill continued the alternative response program, not just as a pilot, but as a permanent part of the child welfare system. And also in that bill, it created an alternative response advisory committee under the Children's Commission, so I'm excited to say that is in the works. We have a great group of people that we've received applications for and we plan to have our first formal meeting in 2021. Those applications have to go before the Children's Commission to be voted on, so we do not have official membership as of yet, but we will-- we hope to have official members in January. And I'm really looking forward to starting to work with that committee. We have some, some great members on board that I think will drive a nice strategic plan to help strengthen the alternative response program. So current day, as I talked about with the alternative response committee, we eliminated the psychotropic medications committee under the Nebraska Children's Commission with bringing on that new alternative response committee. And so we still have the other four statutory committees, but you'll see alternative response and psychotropic medications committee is no longer a part of the Children's Commission. We also have the foster care reimbursement rate committee, the juvenile services committee, Strengthening Families Act, and then the Bridge to Independence advisory committee. This is just a snapshot of our organizational structure so you can see how things flow. On the bottom, you'll see our five statutory committees and then we also are able to prioritize additional work at the commission level if there

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

are issues or concerns that we'd like to take on. A few highlights I wanted to share with you about 2019 to 2020-- of course, I wasn't around for 2019-- this is mostly 2020 highlights, but we did approve the work of the statutory committees and so there are reports for the statutory committees, including the foster care reimbursement rate committee report. And that one's only done every four years, so this is a big year for that committee. They were very busy in 2018 and 2019. Some other items that I wanted to highlight, the Bridge to Independence committee facilitated a special immigrant juvenile status presentation. And there are some informal recommendations that have come out of that that the committee plans to revisit next year, early on. We are creating the alternative response committee and eliminated the psychotropic medications committee. And then one thing that in a normal year may not seem like a big deal, but this year, of course, for us, continuing to meet regularly throughout the pandemic, despite facing multiple challenges, has really been a highlight. You know, we've had to manage the directed health measures in our area and executive orders and trying to meet regularly with the commission and our statutory committees has posed some challenges. You know, we've had to find larger meeting spaces to accommodate for in-person meetings. And we've also experienced times where, you know, members didn't feel comfortable coming in person to the meetings because of the high rates of COVID-19. And so you'll see in some of our statutory reports, we do note those barriers, but we have done our very best to continue meeting and to continue moving our work forward. So highlighting some of the work of the statutory committees, I have had the opportunity to meet with several of you about the foster care reimbursement rate committee recommendations. This is a big, big report. This committee took on a lot of work over the last few years and I'm excited to have the recommendations before you today. This is just a snapshot of where the foster care reimbursement rate committee has been. So you'll see in 2012, they were created, along with the Office of Inspector General. You know, a lot of, a lot of items came out of that child welfare reform time in 2012. And then in 2013 and in 2014, we did a lot of work to help standardize the level of care and the way we measure foster care in Nebraska. In 2014, we created tiered caregiving responsibility levels. And so that was a big change that I think really standardized, across the state, how we measure levels of care and what it takes to care for a child. In 2016, we submitted our legislative report and recommended no rate changes. And then just a short note that in 2-- in 2019, the department did implement an across-the-board 2 percent rate increase, which impacted foster care. I'm just going to highlight the recommendations today. In your report,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

you'll find a lot more detailed information and I'm happy to answer questions after this presentation or schedule follow-up meetings as well if you have more questions than we're able to get to today. But one of the big recommendations is the reimbursement rates be adjusted based off of our new essential rate calculations. So you'll see those on page 3 of the foster care reimbursement rate committee report. I'll give you just a second to get there if you want to look at it while I'm talking. On page 3, it will-- you'll see a detailed chart with the current rates and I do just want to give a caveat that those current rates are from 2019. There was recently an increase and so those rates are no longer current. And then you'll see the proposed daily rates that our workgroup committee came up with. There's a lot of work that's been done behind these rates, but you'll find in the report information about what those rates are built on. A big piece of that is the USDA expenditures on children and families. That's a report that was put out in 2017. And that report estimates what families actually spend, so the cost of raising a child. There's a lot of different variables there that we considered and we have that all in a spreadsheet. Those, those rate recommendations also impact a fourth tier of caregiving that we were asked to take a look at. So in Nebraska, one of the dynamics that we have is that we have the three levels of care, which I think are, are really great, but what is happening a percentage of the time is that there are youth who have extensive needs that fall outside of those three levels of care and our committee was asked to look at a fourth tier. Is there a need for a fourth tier of caregiving, and if there is, what does that look like? So we said, yes, there does need to be a fourth tier. Right now, the department is issuing letters of agreement for children with extensive needs. And while it is a good thing that the department is creating ways to meet those needs, it also can create issues with standardization across the state. The other issue with letters of agreement, as opposed to a fourth tier of caregiving, is that the department does not receive any federal reimbursement for funds that are spent above our rate structure. So right now, they get a portion of federal reimbursement for the three tiers. But if they're paying above and beyond that, there is not a federal match. So if we implemented a fourth tier, there's that potential to increase federal funding. The third bullet you'll see there with these changes and the addition of a specialized level of care basically just means that we need to update the tool that we're using so that it reflects a fourth level of care. And our committee has worked on a revised Nebraska caregiving responsibility tool and we just would ask that DHHS, Saint Francis, and the tribal courts adopt and implement that. The second

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

two pieces that you'll see here, the first one is about Medicaid and treatment family care. So I think a big piece of our report and what we were asked to take a look at this year is that service array of we, we really have a problem in Nebraska. We have difficulties placing older youth who have behavioral and mental health significant challenges and so one of the things that we can do is expand our options to place and to treat those youth. And treatment family care is one of those tools that allows a step down from a treatment facility for youth or maybe a bridge in between a foster home and another treatment, a congregate care setting. And so one of our recommendations is that the Divisions of Medicaid and Long-Term and Children and Family Services would adopt the treatment family care recommendations that are in our report. And you'll see those in the foster care reimbursement rate committee report as well. On pages 13 to 14, it goes into more detail. There you'll see a definition for treatment family care. The committee worked for several years on this definition and on the rate structure. And so, again, we believe this would be an important tool to providing more service and, and treatment options for youth. We know that in general, youth are served better in family-like settings. And so this would just be another option to treat youth in a home instead of in a congregate-care setting. That last recommendation that you'll see is related to the guardianship and adoption statutes and assistance programs. So just an example to kind of illustrate the, the issue that we see here, so if you have two, two parents that are fostering, say, a four-year-old child, one of those parents adopts that four-year-old child, the other parent provides a guardianship, so the parents who provide an adoption, if that child's needs change significantly-- say the child turns six and they have-- they're having some trouble in school, maybe they have a mental health diagnosis and the foster-- or the adoptive parents are, you know, having some difficulty trying to change things around to meet that child's needs. They could come back to the department and request an increase in their adoption subsidy. If they have sufficient documentation, those are usually granted and that helps provide that family additional financial resources to meet that child's increased needs. So on the other hand, if you have a family that provided a guardianship for a four-year-old child, there's two types of guardianships, federally funded and state funded, and a majority of guardianships are currently state funded. So that's important to know when we get to the point-- if this guardianship that that four-year-old is in is state funded, say the same child has issues at age six or seven, a significant change in their mental health or behavioral health needs, if that family went to ask for an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

increase from the department because of that change in needs, the department, right now, according to statute, does not have a means to grant those increase requests. And so what our committee is saying is essentially that it is really important for families and youth in those circumstances to have access to those financial resources to help stabilize the family and the child and provide them with all the resources needed to prevent disruption. So I'm going to cover a couple of-- other of the statutory committees and the first one is Bridge to Independence. You may have heard a little bit last year about our external evaluation. Child Trends completed an external evaluation on the Bridge to Independence program and we gained a lot of really helpful information from that, as well as recommendations moving forward. There were several factors in that external evaluation that just strengthened our belief that the Bridge to Independence program is valuable and that it's working. Some of those include youth in the Bridge to Independence program are more likely to be able to cover their expenses. They were more likely to have some savings. They reported more self-regulation. They reported being more hopeful. They had better housing income-- outcomes and they were more prepared. One of-- so, sorry, a couple of the areas of need then that that report identified is more preparation for transition in and out of the program, which is something I heard discussed earlier today in testimony. So with those positive outcomes, we want to see that be extended to youth in Nebraska's juvenile justice system as well. And we have two criteria there that we would recommend being used to determine which juvenile justice youth are eligible for or would be eligible for Bridge to Independence. We want to take as many preventative measures as possible to help keep youth out of the adult justice system. And we believe that Bridge to Independence is one of those tools that can help provide positive supports and resources for young adults. The other two recommendations are really getting at that transition and so those came from the, the external evaluation. There's really a focus on helping prepare youth for entering the Bridge to Independence program, doing a budget. That warm handoff, too, is really important. So a handoff between the case manager and the independence coordinator so that youth knows and sees that that relationship is important. The other piece of that is working to help young people transition out of the Bridge to Independence program is another area that we want to keep an eye on as well. That extended period of Bridge to Independence where we provide supports for youth is very helpful and we see the results of it in that external evaluation. But we also want to make sure that youth are-- that they continue to be more successful, that they continue to have the tools

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

they need at 21 and beyond, so that we're not just extending the help and then they struggle in those early 20s by themselves. Another piece of the Bridge to Independence, as I mentioned earlier, is the immigrant juvenile status presentation from the Immigrant Legal Center. They recommended that we add explicit language to include all children should qualify for B2I regardless of immigration status. And that's one piece that we intend to look at closer as a committee next year. I also wanted to touch briefly on the Strengthening Families Act committee. We've worked a lot to strengthen normalcy for youth over the last few years. I know when I was first a case manager in 2010-- sorry, 2-- yeah, 2010-- I had a teen youth that I will never forget for many reasons. But she wanted to go to a sleepover with one of her friends and it was really difficult for us to say yes at that time because of background check requirements and other barriers that were in place and I-- that really stuck with me because I thought, you know, how challenging is it for a youth to be in foster care to begin with and then for that youth to not be able to do things that their peers are doing just because they're in foster care? And so as a system, we've really come a long ways in providing normalcy opportunities for youth. We've taken down some of those barriers, given foster parents and caregivers more decision-making abilities, which I think is great, in order to help those youth feel normal and do some of the things that their peers are doing. And so we also-- one of the recommendations that we have is that normalcy should be extended to youth in all systems of care. So as it's written today, the requirements for normalcy plans and reports is only applied to group homes and shelters. Therefore, it doesn't include treatment centers where youth are placed, so it doesn't include all levels of placement. And if this is one of our values, we know that youth need normalcy no matter what setting they're in. We believe that that should be extended to all levels of care. The other note that I wanted to make, there is a normalcy subcommittee, so that is the focus of the subcommittee is normalcy activities and strengthen-- strengthening individual opportunities for youth. We are launching a plan in 2021 to work closely with agencies. So the agencies that write the normalcy plans and reports, we are going to be working closely with them. Over the years, we've seen a lot of variety in how agencies are submitting those plans. We've seen some really strong ones and some others that we think we would like to share, some of the good pieces that are in other reports. And so we really want to work with agencies to make sure that youth are getting all of the opportunities that are available to them. The last couple of slides here are our priorities and these were set in 2019 with the new commission members. We are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

continuing those into 2021 and so these are areas that we will monitor, some of them we have specific plans for. So the prevention continuum, there's a, a large number of items within that. But we do want to monitor the prevention continuum, continue to look at alternative response. The committee is going to give us the opportunity to be very involved with the alternative response program and then noncourt and voluntary cases and the Families First Prevention Services Act. We also like to monitor placement stability. Racial and ethnic disparities has been a big one that's come up this year and true-- as well as truancy and status offense filings. And then we have statutory committees that we continue to prioritize. The last two, and we've talked some about this already this morning, but are the Eastern Service Area contract and the Youth Rehabilitation and Treatment Centers. We continue to monitor those as a priority. The commission has done a lot of work on recommendations regarding the YRTC's under the juvenile services committee. And so the juvenile services committee especially continues to be committed to being a stakeholder in that and they desire to be a part of the planning and process for the YRTC's. We have a lot of stakeholders on the juvenile services committee that have been around for decades and they have that expert knowledge that really will help move our system forward. So with that, I just wanted to say thank you again for the opportunity and I'd be happy to answer any questions.

HOWARD: Thank you. All right, before we get started, I apologize, I had to step out. There are no pages here to bring us coffee, so-- to bring me coffee. So I had a question about your appointments. So I-- and I, and I feel like I heard it, but, but can you just go over your appointments, how you're appointed and what the status is of your appointments right now?

LAURA OPFER: Yeah, so membership lasts two years and the Governor appoints those 26 members that are listed in statute. The Governor appoints only the ones in statute and then there are others that are, you know, ex officio members that don't necessarily need an appointment. But the, the membership term is for two years. So in the fall of 2021, we will be looking for new appointments.

HOWARD: Perfect, thank you. I apologize. Senator Arch.

LAURA OPFER: That's OK.

ARCH: Thank you. Thanks, Laura. When we last met, I think you were planning on meeting with the department to present your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

recommendations as well as the rates. Have you had a chance to do that? And if so, have they provided a response?

LAURA OPFER: Yes, I did have the opportunity to meet with them and talk through the recommendations in our report. I don't have a formal response from them, but, you know, I was able to engage in some dialogue about, you know, any thoughts, questions that they had on the recommendations. We did spend significant time talking about the specialized level of care and treatment family care. And I believe that they also see that need for additional levels of care and treatment options for youth in our state.

ARCH: Do you-- have you-- is there any follow-up meetings with them after they've had a chance to discuss that internally?

LAURA OPFER: Yeah, I have attempted to have another follow-up conversation, but have not been able to schedule that yet, and so that's something that I'm hopeful we can do. I've, I've offered-- put the offer out there and it's just a matter of, I think, matching up schedules.

ARCH: And who's your primary contact there? Where, where do you go with these recommendations?

LAURA OPFER: I've spoken with Stephanie-- Director Stephanie Beasley and Dannette Smith was also on one of the calls that we had.

ARCH: OK, thank you.

HOWARD: Other questions? And just to clarify, members of the department are on the commission, correct?

LAURA OPFER: Yes, yes. Director Stephanie Beasley is a new commission member when she came to the department.

HOWARD: OK, great. Thank you. All right, any other questions? All right, seeing none, thank you for visiting with us today. This will conclude our briefings for the morning and I will see all or most of you at 1:30 this afternoon. We have two hearings this afternoon. The first one is about Saint Francis and the second one is about child welfare and COVID overall. And so it will be riveting, it will be live-streamed, and I look forward to seeing all of you at 1:30. Sound good? All right, see you then.

[BREAK]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Going to get started. I think everybody's here. All right, good afternoon and welcome to the Health and Human Services Committee via Zoom. My name is Senator Sara Howard and I represent the 9th Legislative District in midtown Omaha, and I serve as Chair of this committee. I'd like to invite the members of the committee to introduce themselves, starting alphabetically with Senator Arch.

ARCH: John Arch, District 14, Papillion, La Vista, and Sarpy County.

HOWARD: Senator Cavanaugh.

CAVANAUGH: Machaela Cavanaugh, District 6, north-central Omaha, Douglas County.

HOWARD: Senator Hansen.

B. HANSEN: Ben Hansen. I represent Washington, Burt, and Cuming Counties, District 16.

HOWARD: Senator Murman.

MURMAN: Senator Dave Murman, District 38, southwest and -east of the tri-cities of Hastings, Grand Island, and Kearney.

HOWARD: Senator Walz just had to step away for a minute, so, Senator Williams.

WILLIAMS: Matt Williams from Gothenburg, Legislative District 36, which is Dawson, Custer, and the north portions of Buffalo Counties.

HOWARD: Thank you. Also assisting the committee are our legal counsels, T.J. O'Neill and Paul Henderson, who will be taking notes and moderating the Zoom. I would also like to thank the Legislature's Technology Office and the Clerk's Office for their assistance in putting together these Zoom meetings, as well as personally thank NET Nebraska for live streaming them for us. These hearings are being recorded. A live stream of the proceedings is available on NET's website at NETNebraska.org, which can also be found through a link on the Health and Human Services Committee's page through the Legislature's website at NebraskaLegislature.gov. Please keep yourself muted unless you are testifying. There's an icon at the bottom of your [INAUDIBLE] that looks like a microphone, which you can use to mute or unmute yourself. This afternoon we're going to hear two interim studies and we'll be taking them in the order listed on the agenda on the legislative calendar. If you're planning to testify today, please

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

ensure the introducer of the interim study has your updated contact information, including name, email and phone number. This will help us keep an accurate record of the hearing. If you also have written testimony to submit, the Legislature's policy is that all letters for the record must be received by the committee by 5:00 p.m. the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. Please provide a copy of your handout to the introducer of the interim study and a copy to our committee clerk, Sherry Shaffer. Her email address will be posted in the chat. If you have an electronic copy of your handout that you'd like to share on the screen for the committee, you may do so. Just give us a heads-up. Each testifier will have five minutes to testify. When you begin, the timer will start. We'll ask you to wrap up your testimony after five minutes has passed. We are analog here in the HHS Committee, so T.J. will hold up a yellow card if you have one minute left and a red card when you are done, although we're not-- we're not being very strict about time these days just because with the Zoom, it's actually-- our hearings are actually going really quickly. OK, when you testify, please begin by stating your name clearly into the microphone, and then please spell both your first and last name. The hearing on each interim study will begin with the introducer's opening statement. After the opening statement, we'll hear other testimony. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We do have a strict no-prop policy in this committee. And with that, I will hand it over to my Vice Chair to open us up for LR410. Senator Arch, you are muted.

ARCH: Are you introducing LR410?

HOWARD: I am. It's a committee intro-- it's a committee resolution.

ARCH: Thank you.

HOWARD: Yeah.

ARCH: Senator Howard, thanks for coming today.

HOWARD: Thank you for having me, Senator Arch. I very much appreciate it. All right.

ARCH: And please introduce our interim study, LR410.

HOWARD: The HHS comedy hour. This is great.

ARCH: Sorry.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: All right. No, we're doing great. We're all learning how to do this together.

ARCH: That's right.

HOWARD: OK. So good afternoon, Vice Chair Arch and members of the Health and Human Services Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I'm before you to open on LR410, which is an HHS Committee interim study to provide continued oversight of and updates regarding the contract between the Department of Health and Human Services and Saint Francis Ministries. As the committee is well aware, in June 2019, the department awarded a five-year contract to Saint Francis Ministries for child welfare case management services in the Eastern Service Area, which consists of Douglas and Sarpy Counties. Saint Francis Ministries replaced PromiseShip, which had formerly been known as the Nebraska Families Collaborative, which had served the Eastern Service Area since the inception of private case management in 2011. At the time the contract was awarded, I spoke with many individuals, including some of you who had concerns about this new partnership with Saint Francis. Many of those concerns arose from the fact that the bid from Saint Francis was significantly less expensive than the bid from PromiseShip. In fact, the bid from Saint Francis was less than 60 percent of the bid from PromiseShip and about half of what it had historically cost PromiseShip or the state of Nebraska to provide services to the children in the Eastern Service Area. My concern was that the state's arrangement with Saint Francis was not adequately funded to ensure an appropriate level of service for the vulnerable population it is intended to serve. Notwithstanding these concerns, the transition of case management to Saint Francis Ministries began early in October 2019. I should note that Saint Francis accepted the enormous task of transitioning over 4,000 children in the Douglas and Sarpy Counties area. Transitioning thousands of cases from one private contractor to another is a huge undertaking, and Saint Francis does deserve credit for completing this transition ahead of the January 2020 deadline. However, throughout the last year, there has also been cause for concern. As of the end of the last-- this last fiscal year, Saint Francis was unable to satisfactorily meet the mandated caseload requirements, with only 41 percent from last quarter. They went up to 46 percent with this most recent quarter. And what we're seeing from September, I believe, September or October, we're looking at a 55 percent caseload requirement, meeting that guideline. Saint Francis has also fallen short of the two-beds-per-foster-child agreement agreed to-- requirement agreed to in its contract. And that shortage led to youth

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

spending multiple nights in Project Harmony Triage Center earlier this year. And there have been reports that Saint Francis has been late paying its subcontractors. I also just wanted us to take a minute and look at the December 11 report. I don't know-- it was emailed out to all of you to look at. And starting on page 5, there are just a couple of issues that need attention and next steps. The first one is caseload size and turnover, which I think we've talked a lot about caseload size, but the impact on the ground is if the caseworker has too much on their plate, iaat-- it is really hard for them to-- to give each child the specific attention that they need. And so you want to make sure that caseworkers have an appropriate caseload size for the work that they're doing. The next issue that came up was recruitment and retention of foster homes, specifically licensed foster homes. And we heard it this morning. Licensed foster homes are important. They're important for safety, but they're also important for us as a state to ensure that we're drawing down our IV-E funds. That's our federal funding, and that's our biggest base of funds for our child welfare system. And so we want to make sure that we're sort of checking every box to make sure that we can draw down those funds in a thoughtful and effective way. Another issue that came up that was mentioned this morning was the issue of background checks. So apparently our contractor was not checking all aliases and other names in their background checks. And so a first-round review of personnel files was done in September and 25-- they took 25 files and 8 of them were not done appropriately. Their background check was not done appropriately, so those eight actually were not able to have unsupervised client contact for a period of time. And then they actually went back in October and did-- they checked more HR files. They did 49, and of those 49, 27 of them had a disruption in service because their background checks were not appropriately done. That's about 55 percent. So I think that's a big issue that I hope the state is-- is really considering. And then finally, we're just-- I-- I was a little bit worried about documentation, both the documentation of the case plan-- a case plan has to be done within the first 60 days of an open case, a case plan. And I'm sure some of the experts can talk a little bit more about why it's important to have a documented case plan for a family, but it helps-- it helps everybody make sure that they're on the same page in the-- in regards to how we're going to get a family to permanency. And then the other piece was the documentation of a placement change within 72 hours, so making sure that that-- that we're documenting appropriately when we're moving a child to a different location. It's not just for us as-- as overseers to make sure that this documentation is there, but also for the caseworkers.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

You know, if you have to change a caseworker or if you have to make a different decision on a placement, you want to make sure that there's appropriate documentation in the case file. OK, so those are the performance issues that I want to make sure that we get a chance to talk about today. Additionally, and we scheduled this hearing well in advance of some of these newer issues, but I know that they'll-- they'll be top of mind in perhaps part of our conversation today. So additionally, just in the last few weeks, we have also seen some troubling reports about an internal investigation at Saint Francis in Kansas which revealed that 165 reports were falsified by a Saint Francis employee, showing that the employee had visited with families, but they had, in fact, not made those visits. And I think everybody on the committee understands the importance of that, that monthly home visit with a caseworker to make sure that kids and families are safe. We also found out that last month there was a whistleblower report in Kansas that made allegations of financial mismanagement at Saint Francis' highest levels, which, if true, would give rise to serious concerns about the long-term ability of Saint Francis to live up to its commitments here in the state of Nebraska. And shortly after these allegations did come to light, both the CEO and the COO made sudden departures from the organization. It's now been almost a full year since the transition to Saint Francis was completed, and now is an appropriate time for this committee to exercise its oversight responsibilities with respect to Saint Francis, the department, and child welfare in the Omaha area. As I noted in our hearing last week on Medicaid expansion, every effort was made by this committee to ensure the Department of Health and Human Services could attend our virtual hearing today and update the committee on its dealings with Saint Francis. The department refused to attend this important hearing, and the department's unprecedented refusal to participate presents a huge obstacle to this committee's oversight responsibilities. Additionally, my office reached out to Saint Francis with an invi-- invitation to update the committee at this virtual hearing. However, I was informed on Monday that Saint Francis was advised by the Department of Health and Human Services not to attend this hearing. In light of the agency's absence and the absence of Saint Francis, I'm very grateful to the stakeholders who are present today to brief the committee. We'll be hearing from Lana Temple-Plotz, the president of the Children and Family Coalition-- Families Coalition of Nebraska; Corey Steel, the Nebraska State Court Administrator; and Dr. Bill Reay, president and CEO of Omni Inventive Care in Omaha. Before we get to our invited testimony, both the Department of Health and Human Services and Saint Francis have sent

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

letters regarding this hearing, and I'm going to have our legal counsels read those letters into the record. Following that, we'll go to our invited testifiers. Since this is a committee resolution, I'll continue to provide-- preside once questions are done for this opening. I think-- you know, and I'll just take a pause. I think the ultimate question here for the committee and for the Legislature in the future is, really, how long are we willing to tolerate a contractor who continues to not meet the expectations of the contract? How long will we go before we consider-- consider it a breach of the contract that we've made with Saint Francis when they continuously fail to meet our expectations? And ultimately, when they fail to meet our expectations, it causes harm in two ways. One is it impacts our ability to draw down federal funds to continue to support our child welfare system. But it also, and ultimately, and the thing that worries me the most, is that it could potentially cause harm to children and families in the state of Nebraska. And so I want us to be really mindful about where is our line as a Legislature and as a committee and as an oversight authority when we consider the significance of this contract for children and families in the state of Nebraska. I really appreciate your time and attention to this issue. I'm happy to try to answer any questions. What we've talked about previously is that any question-- because the agency was not able to come in, if you-- if the committee does have questions that they'd like us to draft in a letter form to the agency to sort of get the ball rolling with follow-ups from any of the three hearings that the agency did not attend, so Medicaid expansion, COVID, as well as this one, I'm happy to sort of collect those. We'll get that letter out the door as quickly as we can and anticipate a response in early January. So with that, this is the best time, if there are questions from the committee, to get them onto the record since we won't be hearing from Saint Francis. Thank you, Senator Arch.

ARCH: Are there any questions for Senator Howard? Senator Cavanaugh.

CAVANAUGH: Thank you, Senator Arch. Thank you, Chairwoman Howard. So my first question is, Saint Francis was told by DHHS not to attend today's hearing? Is that correct?

HOWARD: The language that was used was that they were advised by the department not to attend.

CAVANAUGH: Did they expand on why they were advised by the department not to attend?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: No.

CAVANAUGH: OK. And the department did not express why they would tell an agent, a contractor, not to come to this committee hearing? That-- that's a question I-- a question I would like to ask of the department is, why would you tell the contractor that they should not attend this hearing? I find that extraordinarily concerning and infringing upon our role as the oversight of the executive branch that they would instruct a contractor, whose job it is of us to vet whether or not we should be funding that in the future. I don't know how we will make those choices in the upcoming budgetary session if we aren't able to ask questions of major contracts, hundreds of millions of dollars of contracts. It's a long question with a lot of statement involved in it, but that's what I would have asked if the department were here or Saint Francis were here. I have additional questions, but I'll pause in case anybody else has questions.

ARCH: Other questions from the senators? Senator Williams.

WILLIAMS: Thank you, Vice Chairman Arch, and thank you, Senator Howard, for bringing this all to our attention. From the perspective, just so we clearly understand this, the-- the caseload function is in the contract at a certain level. Is that correct?

HOWARD: I believe so. I'd have to review the contract again, but I believe there is an expectation of meeting a certain percentage of caseload requirements and they're not there.

WILLIAMS: I'm bothered by the-- the use of the word "expectation" rather than a term of the contract. Do we know if it's a term of the contract?

HOWARD: Caseload size is a term of their contract. I just don't know what percentage it-- it--

WILLIAMS: OK. And-- and in your judgment, as having reviewed a lot of these types of contracts and being a lawyer yourself, that would be a material part of the contract?

HOWARD: Yes, absolutely.

WILLIAMS: With that in mind, how-- you know, from-- from the perspective of oversight that we have, that's one thing. But from the perspective, my question to the department would be, how are you managing the oversight of this term of the contract, and have you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

considered calling the contract being in breach of contract because of violation of that, and what would be the-- the outcome of a breach of contract, would that just terminate the contract, or would-- are there penalties in the contract for noncompliance, questions along those lines, so-- that I've-- I've not reviewed the contract. So I think it's imperative that we do that, and going back to your statement, that this is what's in the best interest of the kids. It's the contract that was put together. It needs to be followed.

HOWARD: Thank you.

ARCH: Thank you, Senator Williams. Senator Cavanaugh.

CAVANAUGH: Thank you. I also had similar questions about the documentation. I would add a follow-up to that of the 34 percent that are documented within that 72-hour period, is that-- are most of those just because they're reported within 84 hours, or what is the actual time, or are we actually losing 34 percent of children? I-- I would hope that it's just a matter of they don't fall within the 72 hours, but I would like an answer to that. And then this morning we heard from the Foster Care Review Office about the substantial amount of manpower and time that DHHS has invested in getting Saint Francis to be closer to compliance with the contract, yet they still do not appear to be. Has DHHS considered, as Senator Williams said, terminating the contract because they are in breach, and-- and in that consideration, because they're already investing so much time and resources into this, taking it on underneath DHHS as they do for the rest of the state? The Eastern Service Area is the only service area that is not managed by the state, and I know it previously was. And I know that that is another level of-- of questions that would have to be answered, of course, but it would be nice to know what their thinking is on this moving forward. That's all my questions for now. Thank you.

HOWARD: And-- and if I may, just a brief comment on that. You know, what-- and you may remember last year I asked-- I invited Senator Campbell to come in and talk to the committee over lunch where we went over LR37. I would sincerely advise the committee to revisit LR37 and just take a gander at that report from before. And what we saw was that as contractors-- you know, originally, the whole state went under privatization and then as contractors went out, it sort of went west-- west to east, and the last two were in the Lincoln and Omaha area. And my understanding was that in Lincoln, in particular, it was employees clocked out on Friday working for a certain contractor and they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

clocked in on Monday working for the Department of Health and Human Services. And so if it was necessary to transition away from a contractor, you know, we do have precedent in the state for a smooth transition in that manner. I'm also struck by how well the rest of the state is doing in terms of meeting the CFS hours, meeting those child-- the children and family requirements that are set by us-- set for us by the federal government. And so by comparison, it's-- it's hard because the Eastern Service Area is literally dragging down the rest of the state in terms of meeting our federal requirements, and so we really don't want that to continue into the future. So thank you for those questions, and I took notes and Paul took notes, and so we'll make sure that we get those into a letter for the department.

ARCH: Other questions for Senator Howard? I would have one other question, Senator Howard, to-- to ask the department, and that is-- and-- and that is, it's-- it's related to the whistleblower situation in Kansas. What-- what steps is the department taking to ensure or to audit the billing procedures of-- of Saint Francis?

HOWARD: To audit the billing procedures in the state of Nebraska?

ARCH: In the state of Nebraska, correct, yes, under this contract. Thank you.

HOWARD: Thank you.

ARCH: OK, I see no other questions from the senators. So, Senator Howard, if you'd like to proceed with the hearing.

HOWARD: All right. Thank you so much. We're going to turn it over to T.J., who is going to read the Department of Health and Human Services letter into the record.

T.J. O'NEILL: Thank you, Senator Howard. The Department of Health and Human Services submitted a letter that encompassed information for both LR410 and LR422. I will read the portion for LR410. Case management request for proposal: In 2019, the Nebraska Department of Health and Human Services Child and Family Services Division, "CFS," began the statutorily required request for proposal, "RFP," process to seek proposals for the administration of child welfare case management services in the Eastern Service Area, or "ESA." The RFP was crafted to encourage prospective applicants to submit a proposal that enhances community engagement, offers exceptional client solutions, and delivers a robust service array focusing on prevention, innovation and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

collaboration. After careful review of the submitted proposals by external review panels and the Department of Administrative Services, "DAS," Saint Francis Ministries' bid was accepted to provide case management in the ESA. DHHS oversight: To date, the work with Saint Francis Ministries has been focused on securing clear processes in partnership with DHHS. CFS has maintained daily, weekly, and monthly contact with Saint Francis Ministries, both during the transition and to date. To further resource this partnership, DHHS added a second experienced administrator to lead this important work in July of 2020. The Eastern Service administrator provides direction to the Eastern Service Area with a continued focus on prevention, operational processes, and successful case transitions between CFS intake and assessment and Saint Francis Ministries. Additionally, the ESA contract is structured such that CFS provides consistent oversight and accountability to Saint Francis Ministries. This ensures that our provider offers quality case management and evidence-based services that are responsive to the needs of the families through a continuum of case oversight. CFS monitors performance through a compliance tracking system examining 12 performance areas, which was developed in consultation with the Stephen Group, a government consulting agency specializing in child welfare management and assessment. Performance measures: CFS maintains an ESA-only contract-monitoring team that continuously tracks caseload sizes, performance metrics, and child and family outcomes. Following the transition from PromiseShip to Saint Francis Ministries, CFS began quarterly reviews of performance on January 1, 2020, to determine if performance measures are being met. After completion of each quarterly review, CFS submits the review to Saint Francis Ministries for response. These quarterly reviews focus on the following metrics and performance measures: case transfer and assessment; case management and supervision; service array; service monitoring; educational opportunities; community engagement; resource family and foster parent homes; workforce; maximizing public and private funds; utilization management; administrative review; and information systems. In response to the quarterly CFS analysis, Saint Francis Ministries is developing programs and strategies to ensure performance measures are being met. For example, as a strategy to increase employee retention and workforce performance measures, Saint Francis Ministries implemented the First Year Experience program. This program will be used to evaluate the employee recruitment and retention process to determine which areas can be improved as it relates to new employee satisfaction and training. Corrective action plans: Performance areas needing attention are identified in case reviews or audits. When noted, CFS works closely with Saint Francis

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Ministries leaders to develop corrective action plans. For example, a corrective action plan was developed to ensure compliance with caseload standards. To address this, Saint Francis Ministries has developed strategies to reduce caseload sizes to ensure foster care children and families receive the appropriate amount of attention and care they need. This has resulted in Saint Francis hiring additional employees to balance caseloads without disrupting usual care for children and families. Other corrective action plans address areas needing performance improvement. DHHS will continue to work with Saint Francis Ministries in development of the corrective action plans and continuous quality improvement focused on the well-being of children and families in the Eastern Service Area. In October of 2020, the interim CEO of Saint Francis Ministries notified DHHS that a whistleblower complaint was received and the board of directors initiated an investigation into the complaint. Saint Francis Ministries appointed an interim CEO, William Clark, while the chief operating officer and chief executive officer were placed on suspension during the course of the investigation. In November of 2020, DHHS was notified that the COO and CEO would not be returning. The interim CEO is working closely with DHHS to ensure the services to Nebraska children and families provided by Saint Francis Ministries continues without disruption and-- and corrective action plans in place remain a priority and are resolved. That is the end of the LR410 portion of the letter.

HOWARD: Thank you, T.J. Paul, would you like to read into the record the correspondence from Saint Francis?

PAUL HENDERSON: Yes. This morning, Saint Francis sent a letter to the committee from Jodie Austin, Saint Francis regional vice president, and I will read that letter now. Dear Senator Howard and members of the Health and Human Services Committee, please enter this letter into the official record of LR410, an interim study to provide continued oversight and updates regarding the contract between the Department of Health and Human Services and Saint Francis Ministries for child welfare case management services. We recognize the importance of this study and have provided written information about the Saint Francis Ministries operations, including workforce and performance measures. Saint Francis Ministries maintains its commitment to full-service case management through expanding services to children and families, community engagement, and partnering with the Department of Health and Human Services. Saint Francis continues to assess and monitor performance through federal and state outcome measures as specified through our contract with the state. Workforce: Saint Francis

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Ministries recognizes the stability of the child welfare workforce is essential to achieve positive outcomes for children and families. Saint Francis has worked diligently to ensure a stable workforce is in place, containing the necessary knowledge, skills, and abilities required to bring hope and healing to Nebraska children and families. We continue to hire case managers, on-board and provide them with necessary training so they will be fully prepared to take on new cases once they have completed these processes. The general premise of case management is based in the fact that when an individual reaches their optimum level of well-being and functional capability, everyone benefits: the individuals being served, their family, and their support systems. Saint Francis Ministries utilizes a multidisciplinary information-sharing framework. This way of operating creates a supportive and consistent infrastructure for critical thinking, decision making, supervision, professional development, collaboration, family involvement, applied research, and practice improvement. This way of operating supports identifying next steps to create, build, or reimagine interventions which support the process of implementing safety organized practice, which will further enhance our case management practice. We have received many positive reviews which will further enhance our case management practice. We have received many positive reviews highlighting our use of safety organized practice. Saint Francis Ministries maintains a watchful eye on the case manager stability measure. While there were many staff changes prior to and during the contract-- contract transition which will negatively impact this outcome for several months, we now-- we know case manager stability is essential for continuing to support meaningful outcomes. In an effort to improve on the percent of case managers in compliance with the DHHS caseload measure, we have made the decision to create a specialized case management adoption team. This adoption team will be supervised by an adoption case manager supervisor and will be comprised of six adoption case managers and two adoption specialists. We do acknowledge moving towards a specialized case management team approach has benefits and challenges. Providing children and youth with someone who helps them navigate the transition to permanency through adoption often means they will have a new case manager, and there may also be feelings of loss by case managers associated with not seeing permanency all the way through adoption. While there are clearly challenges, there are many important benefits of specialized case management. For example, a special-- a specialization adoption team will help Saint Francis respond to inconsistencies in practice, better support the unique requirements of adoption, decrease the number of children and youth waiting to be adopted, and reduce the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

total amount of time for adoption completion. As an agency, we will be sure to include all case professionals in celebrations and recognition. In a review of the turnover for our Eastern Service Area program, we continue to see a positive downward trend throughout the year. Displaying the turnover as an annualized percentage allows us to predict what our turnover rate could look like at the end of the year should we continue to see a similar pattern of terminations occur. This turnover data does-- does include both voluntary and involuntary terminations. There are several factors that have contributed to staff turnover, the main being the devastating impacts of the COVID-19 pandemic. Thirty-seven percent of our exits this quarter were due to personal family-related issues for the employee, such as loss of child and family care caused by schools and daycares closing, elements of the Coronavirus Aid, Relief, and Economic Security, "CARES," Act allowed some employees to stay home with their children and receive financial compensation. We will continue to closely monitor turnover and ensure effective practices remain in place. Saint Francis has implemented the First Year Experience concept, which evaluated the employment process from recruiting potential employees through their first year of service and will assist in determining areas of strength and opportunities for improvement. Additionally, Saint Francis has begun leveraging Lean Six Sigma strategies to reduce employee turnover [RECORDER MALFUNCTION] created and submitted a hiring plan to DHHS to outline strategies to meet caseload standards and maintain a stable workforce for the Eastern Service Area. The following initiatives were outlined in the plan: hired a recruitment specialist to focus on recruiting-- recruiting new employees with an emphasis on case managers; researching CCFL curriculum to ensure supervisors are knowledgeable of the training specifics received by new staff and prepared to address gaps; restructured a case manager mentor program to support and promote retention of case managers; offered a hiring bonus to employees who refer new case managers; strengthening relationships with area universities; attending career fairs; starting a social work intern program; and exploring partnerships with additional employment platforms for recruitment. Additionally, in order to main-- maintain a strong workforce, Saint Francis has initiated a new survey called Candidate Experience Survey, which allows Saint Francis an opportunity to assess new employees' experience from the interview process to their first week of being employed. Saint Francis will adjust their on-boarding process as necessary based on survey feedback to ensure new employees have a positive experience from the beginning. Performance measures: Saint Francis has shown excellent outcomes in several areas, including

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

placement stability and re-entry into care. Placement stability has consistently been above goal since January for both placements within the first year and placements within months 12 to 24. Re-entry into care has also exceeded the goal since January, with only 5.5 percent of clients year to date experiencing re-entry into care within 12 months of discharge. Another area of strength has been reoccurrence of maltreatment, which Saint Francis has shown very low reoccurrences of maltreatment, at a rate of 2.9 per 100,000 days in care year to date. Saint Francis has exceeded the goal for this measure since January as well. There are a few areas of opportunity that Saint Francis has worked to address over this last year. One such area is permanency for clients within 12 months of entering care and for clients in care 12 to 23 months. Saint Francis has been-- has seen a steady, positive, upward trend for permanency within 12 months of entering care, ending October with a year-to-date percentage of 37.9 percent. Another area of opportunity lies in case manager stability, which has fallen short of the goal in all three areas: stability within six months, stability within one year, and stability over extended periods. We have seen some steady improvements in stability within one year. However, the stability within six months and over extended periods has seen some decreases. Saint Francis has also shown excellent performance in reoccurrence of substantiated maltreatment with 95.5 percent year to date. Saint Francis has exceeded the goal for this measure since January. Median months to reunification for court-involved children and permanency in 12 months for children in care 24-plus months has also shown positive levels year to date. Rate of removal of non-court-involved youth has fallen short of the goal year to date. However, there has been a positive trend throughout the year on this measure, and Saint Francis was able to meet this goal in the month of October for the first time. Median days to case closure for noncourt cases has also fallen short of meeting the goal year to date, however, has shown a positive trend throughout the year. Saint Francis is within four days of meeting the goal for that measure year to date. While there are always improvements to be made, and Saint Francis Ministries will continue to set excellence as our measure, we are especially pleased to have produced positive outcomes which demonstrate clear and meaningful impact on families. Please out-- please reach out to me at jodie.austin@st-francis.org, or our director of communications, Morgan P. Rothenberger, at morgan.rothenberger@st-francis.org, with any questions or for further information. Sincerely, Jodie A. Austin. That's the end of the letter.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Thank you, Paul and T.J. All right, we'll invite our first testifier now, and that's Lana Temple-Plotz, the president of Children and Family Coalition of Nebraska. Welcome.

LANA TEMPLE-PLOTZ: Thank you. Thank you, Chairman Howard and members of the HHS Committee, appreciate this opportunity to testify today and talk with you. My name is Lana Temple-Plotz and I'm CEO of Nebraska Children's Home Society, otherwise known as NCHS. I also serve as president of the Children and Family Coalition of Nebraska, or "CAFCON," who I am testifying on behalf of today. CAFCON is comprised of 11 child welfare and family service provider agencies with a shared mission to make a collective positive impact for Nebraska's children, youth and families. We appreciate the opportunity to share our experiences today. In preparation for this hearing, we surveyed our members, asking for feedback related to billing, case management, turnover, communication, family engagement and satisfaction, and the overall stability of child welfare in the Eastern Service Area. Regarding billing, while this was initially a significant problem, Saint Francis Ministries has worked to fix billing issues with the majority of our providers, and it's greatly improved. While there are still issues to be ironed out, requiring additional time spent by our teams, we expect continued improvement moving forward. Billing staff at Saint Francis are generally responsive and are working to resolve issues as the best that they can. Overall, members are satisfied with case management. For the most part, team meetings are occurring and communication is good, with some case managers being more responsive than others. This is not unique to Saint Francis. Similar patterns were occurring with the previous providers. Members did express a desire for increased clarity and responsiveness around the referral process and questions related to specific referrals. And I should note that the information that we collected with the-- with this survey will be shared with Jodie Austin after this hearing. In general, members are satisfied with communication, reporting strong communication from supervisors and senior leadership. They work to resolve issues quickly once they're made aware of those issues. Communication satisfaction at the director level is dependent on the case manager, with some members experiencing strong communication and others experiencing concerns. Regarding family satisfaction, those families who have case managers who are consistent and strong communicators are obviously more satisfied than those who experience turnover in their case manager. Overall, while agencies report some ongoing concerns with billing, case management, and communication, they do see improvements since the contract began. And then the last

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

thing I'll just mention is regarding privatization overall. There are states who have done it right, where privatization is working, but in every state where there has been success, they have invested the necessary resources to ensure its success. We have not done that here in Nebraska, as evidenced by the current procurement process, awarding contracts to the lowest bidder and receiving additional points for being the lowest bidder. So as a state, we really must invest in children and families if we want to have the kind of outcomes we need. So I thank you for your time today and I'm happy to answer any questions you might have.

HOWARD: Thank you. Are there questions for-- Senator Arch.

ARCH: Thank you. Thanks, Lana, for coming. Have you ever done a similar survey for-- to your providers for their experience with the state versus-- versus Saint Francis and how-- and how that might compare?

LANA TEMPLE-PLOTZ: Yeah, we haven't done one recently, but I will tell you, and I'll share in my next testimony as it relates to the coronavirus and the response, we have had a significant increase in communication from HHS since the beginning of this year, really, I would say, since Director Beasley came on board, and have had really strong communication with the department. I've personally been involved in a number of initiatives that the department has started around Families First and task forces and things like that, so we've had really strong communication from her and the Central Office in particular.

ARCH: OK. I-- I just didn't know how your-- how your members would compare the experience--

LANA TEMPLE-PLOTZ: But I could-- we could certainly--

ARCH: --in-- in case-- caseworkers and-- and that type of thing--

LANA TEMPLE-PLOTZ: Yes.

ARCH: --and, you know-- anyway, so thank you.

LANA TEMPLE-PLOTZ: Yes.

HOWARD: Other questions from the committee? All right, seeing none, thank you for visiting with us today. We appreciate you checking in with your members on this issue.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

LANA TEMPLE-PLOTZ: Absolutely.

HOWARD: OK, our next testifier is Corey Steel, the Nebraska State Court Administrator. Welcome, Corey.

COREY STEEL: Thank you, Senator Howard, and thank you, Health and Human Services Committee, for giving the judiciary an opportunity to speak on your LR today. I did reach out to the judiciary, both the Separate Juvenile Court of Sarpy and Douglas County, to get feedback, and that's what I'll be presenting on today, is some of the feedback that I've received from those judges. What I did is I sent an email out after Paul had asked if we could get a judge to come to testify today and asked if there would be a judge to step forward; if not, if they could provide me with some feedback. And I got feedback via email and some phone calls from some judges. But what I did ask is I asked for what's-- what are some good things that are happening with Saint Francis Ministries and what are some issues and some concerns that the judiciary sees from their vantage point? I'll start off with some of the good things. We'll start off with-- with good things that have taken place. The relationship has started strong, and the responsiveness of not only Jodie Austin but some of the supervisors within Saint Francis Ministries have been good with the judiciary. They have been responsive. They've been able to get in touch with them and to voice their concerns or issues that they see. An example is-- of that was early on in the start of the contract was caseworkers just not showing up for hearings, not showing up for hearings and not being present. The-- the judges have reported that this has been addressed and they aren't seeing as many missed court hearings or missed opportunities. Now, again, with "corona," the last nine months, majority of hearings have taken place in this type of a venue, so it has at least assisted in the fact of the to-and-from traveling to court, being late to court, and so forth. But they feel that it's a step in the right direction that they're able to appear at hearings. Another good thing, based on that, when they are appearing at hearings-- this comes from the Douglas County Court-- they've been able to work with Saint Francis on, after their initial first court appearance, the family and the caseworker will go into a Zoom chat room on their own and have their first initial meeting in that venue, so directly after that first hearing, which has been a positive step, so there's not a disconnect and then having to try to reconnect after that. They feel that that's been a step in the positive direction that they've been able to work through that. They're still trying to create that positive relationship and continue to improve and work on the issues that are brought forth. They feel that they can reach out to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Saint Francis and have meetings or provide dialogue on issues, and they feel that they will be addressed. So those are the good things and I wanted to highlight those good things from the bench. Next I'll address some of the issues or concerns that are from different judges that they've seen from their-- from their perspective. One of the things you mentioned, Senator Howard, was the turnover, and others have mentioned. The turnover is a lot. They have seen a higher turnover rate in the last year than they have seen throughout the time of privatization. Even though there's been a transition, sometimes you will see that, but this is continuing even up until, as of recent, the turnover rate. One judge reports to me that during a termination of parental rights case that lasted 18 months long to try and-- to try and reunify that family, and that did not work, there were seven different caseworkers assigned in an 18-month period to that one case, and it was not due to coverage or what have you. These were new caseworkers assigned because others had left. So that's very concerning, as you can see, trying to create that relationship with that family and that juvenile-- and that kid, excuse me, in trying to look at reunification, but because it wasn't working, it went to a TPR, termination of parental rights. But seven different caseworkers in an 18-month timeframe is very difficult on any family. A secondary issue is when cases come in front of the-- front of the court on abuse/neglect for drug cases, specifically. Saint Francis will not ask the courts to enter into drug testing for the parents. This is something the court on their own accord must do. So they're not requesting any type of drug testing for those cases that come in front of them that that is-- that is the primary issue of why that case is in front of the court. Another thing that was brought to my attention as a-- as a concern and an issue is it's very difficult to make IV-E findings due to lack of information in case-planning court reports. And, Senator Howard, you touched on the importance of these case-planning court reports. That gives us that federal IV-E draw down, and so when those reports aren't accurate, those reports are lacking information or specificity, the court struggles to find those permanency plans viable. What has also happened as of late is they're bypassing the case-planning court report altogether and just providing updated memos to the court. So the court has been receiving short one-to two-page memos instead of full case-planning court reports. And the-- and the court on the-- on these reports have said we have to have a case-planning court report, we cannot make our findings that are needed for that IV-E definition. So they've sent those caseworkers back to complete those case-planning court reports. And again, what that does is prolong the case and move forward. I see my time is up. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

just had one more short thing, if I could, Senator, one more bullet point.

HOWARD: Yeah, absolutely.

COREY STEEL: So the memos instead of case plans and court reports-- the last thing is, from a judicial standpoint, is that the fear of-- of lack of finances, that financial structure that-- that everybody is kind of worried about. The court is very worried that providers are going to not get paid and those services will stop. And then what does-- what does a juvenile court have as resources to provide the needed services for those individuals? So I think that's just an overarching fear from not only the-- not only the bench, but as you have mentioned, Senator, from your perspective, and I'm sure Mr. Reay will talk about it as a provider, the fear of getting paid and then not being able to provide those services, and that would really put the juvenile court in a bind if they don't have those service providers out there in order to provide those services. So thank you again for inviting the judicial branch to provide some input into what's taking place with Saint Francis Ministries. Again, one thing that all of the judges that responded to me wanted to reiterate is they're able to reach out to Saint Francis and have a connection with them in order to voice their concerns and issues when they do arise.

HOWARD: Thank you. Are there questions from the committee? All right, seeing none, thank you for visiting with us today and thanks for surveying your-- your judges for us. We appreciate it. All right, our final testifier for this LR is Dr. Bill Reay from Omni Behavioral Health. Welcome, Dr. Reay.

BILL REAY: Good afternoon, committee members, and thanks for this opportunity to provide you with some information. My name is Dr. Bill Reay. I'm the president and chief executive officer of Omni Inventive Care in Omaha. Among other funding bodies for child welfare services, Omni provides services to children and families who receive case management services through Saint Francis Ministries. As you know, Saint-- Saint Francis is contracting agent responsible for management services of identified youth and families in the Eastern Service Area. The purpose of my testimony is to update the committee on Omni's experience working with Saint Francis. Additionally, I will, within the body of the testimony, provide my personal experience working with Saint Francis. Frequently, I'm ordered by various juvenile court judges to assist the bench in assessing risk, designing services for youth with complex multimorbid conditions, including those youth with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

intellectual challenges and suffer from both serious mental illness and physical complications. Included in that group are youth who have behaved in extremely lethal ways, such as serious suicide attempts and assaultive behavior. As a legally trained psychologist who spent over 30 years as an organizational executive, academic research, expert witness in controverted mental health and child welfare cases, and program architect of evidence-based treatments, I've lived through many state and federal initiatives. As an early adopter of various evidence-based treatments and other technological and methodological advancements and a proponent of using information transfer science in training young professionals, I have adopted and accommodated treatments and scientific results to different populations and environments. I've also been responsible to various funding bodies in an attempt to demonstrate service worth, regardless of how those funding sources view the applied science. Those experiences have led me to several conclusions about this Saint Francis situation and the committee's interest. The child and family service system under Saint Francis, with the leadership and mentoring of the state of Nebraska, has been commoditized. The social and economic worth of child welfare services has been diminished. In other words, differential value between services and service providers has vanished. The economic model of human services being a commodity is based upon the assumption that all consumers of service, including the providers of that service, are the same and, consequently, providers and consumers only require the same. Consumers of child welfare services are families and youth. This assumes that there are no differences between, across, or among the youth, children, or families, nor is there a need to differentiate across, among, or between providers. In other words, a tomato is a tomato, so get the cheapest, offer the cheapest, and keep driving the cost of purchasing that tomato and delivering that tomato down as far as you can. So, for the vast majority of children and families who, for a variety of social, environmental, economic and interpersonal reasons, find themselves in the unfortunate position of being a consumer of service offered by Saint Francis, they will find themselves being offered the same service, regardless of their needs. If you are a youth that requires foster care, you are likely to experience multiple placements each month or your parents or caregivers are offered cookie-cutter parenting classes that are minimal and mostly ineffective. You'll be told that services are evidence based by unqualified case managers and leaders that change frequently and haven't had the time to read the record or digest the multitude of evaluations that have been completed on you, your child, and brothers

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

and sisters. As a provider for Saint Francis, you'll need to only offer what they request. You provide regardless of the unique needs of each family, except on a very visible, politically sensitive, or lethal case, needs attention. At that point, Saint Francis personnel will ask you to help them create something that will meet the needs of the family and youth and their need to find a solution. Once a solution and service is developed and implemented, the provider is hopeful that they will be paid for their work. It is not uncommon, from my experience, that once the emergency is over and agreements have been made, that retrograde organizational amnesia settles in. Arguments, disagreements on meaning, what was requested, and cost agreements are often not honored past the emergency. As I stated earlier, I'm frequently asked by judges to assist with cases managed by Saint Francis that are not cases where Omni is a provider. In all those cases, youth-- youth have been between the ages of 15 and 18 years of age, have experienced more than 20 placements within a couple of years' time in foster care, hospitals, out-of-state facilities, and in state residential institutions. All the youth have similarities, including suicide behavior, serious assaultive behavior, and severe mental illness. They are exceptional in other ways but are best characterized as very complex and clearly outside the everyday competencies of Saint Francis personnel. These youth and families did not become complex overnight. They became that way through a despicable process of systematic apathy and incompetence, a wholesale ignorance of recognizing the unique needs of each family and youth and applying contraindicated services which assist them in their progression to use suicide to escape placements that they perceive as impossible, assault caregivers who engage in harsh management practices, and view the world as an unfair place and adults as untrustworthy. For those of you that remember when there was a series of fatalities associated with the Beatrice State Developmental Center, which resulted in the United States Department of Justice becoming involved in Nebraska with a consent decree, you realize that serious oversight typically occurs only when a system becomes so unresponsive that intervention is required by the DOJ. I remember those days. I was hired by the state of Nebraska in their attempt to restore services for intellectually challenged citizens and rebuild the confidence in state services. Unfortunately, the warning signs of that decay with BSDC went unrecognized or ignored for many years. It was a culture of indifference. In the case of Saint Francis, the degree of decay has not, to my knowledge, resulted in any fatalities similar to those associated with BSDC. Nonetheless, there are a number of near fatalities or serious calamities that do not rise to the level of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

public outrage or even public awareness, but are warning signs nonetheless. Responsible persons in public office can't slip into another culture of indifference for vulnerable children and struggling families in Nebraska. I'm aware of the three branches of government. As a contractor, I provide services to agencies under the executive branch. I also respond to requests by the judicial branch. As for the legislative branch, when considering ongoing oversight of the Saint Francis contract, I'm left with a little curiosity about what that will look like or what it would look like. The system right now is not good and merely providing oversight over a piece of that system that is in serious decay, some of which caused by years of deferred maintenance, leaves me confused in considering what that oversight would or should look like and toward what end. I'll entertain any questions that anyone has.

HOWARD: Thank you. Are there questions from the committee? Senator Cavanaugh.

CAVANAUGH: Thank you. Thank you for being here today, Dr. Bayer [SIC]. You mentioned about providing emergency-- I don't-- guess solutions and services and the amnesia what-- after things settled down a bit. Am I to understand that correctly, that Omni has been asked to provide services to support Saint Francis in their work but not been compensated for those services?

BILL REAY: There are a number of controverted cases right now that I've been called on and begged to do something unusual and then bill them for the service and then three months later still not being paid and then receiving a phone call saying, you know, we really can't do that or we really didn't mean that, and they would like to renegotiate the rate that was provided them under the emergency. Those happen all the time, so--

CAVANAUGH: Do those happen-- is that directly with Saint Francis or is that with the Department of Health and Human Services?

BILL REAY: It's with Saint Francis.

CAVANAUGH: OK. OK. And have you raised this issue with the Department of Health and Human Services?

BILL REAY: Yes, of course.

CAVANAUGH: OK. Who have you spoken with at DHHS?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

BILL REAY: Ross Manhart. I've sent emails to Beasley as well.

CAVANAUGH: OK, thank you.

BILL REAY: Sure.

HOWARD: Other questions from the committee members? Senator Williams.

WILLIAMS: Thank you, Chairwoman Howard, and thank you, Dr. Reay. You talked at some length about the decay in the system over time. Is that decay focused at Saint Francis or did that decay start earlier in-- earlier than that with PromiseShip?

BILL REAY: That's a great question. Decay occurs in any number of-- of speeds, and it has accelerated with Saint Francis. It was not, in my experience, to the extent that it is now. Whether Saint-- whether it's an absolute consequence of Saint Francis, it seems to be an absolute consequence of how that contract was designed and the amount of resources that was provided to Saint Francis. But then again, Saint Francis walked down that path openly and agreed to a contract with 50 percent of known resources. I spoke with Saint Francis as soon as they signed that contract. And, you know, I'm not an accountant, but I sat down with their forward observer group that came out and said, I would like to know-- I said, I know arithmetic, I would like to know how you are going to do this with half the resources that was provided in the last contract. They never answered the question. I am absolutely convinced that they had no intention to be able to do it, but keep going back to the money drawer when they ran out of money. I-- I am very concerned that we're halfway through that contract now, I believe, halfway through the year. You know, they're about out of money, and I'm not sure, you-- you know, how-- what-- what's going on. There-- there's no transparency related to this, and I remember when this happened, the first wave of-- of privatization. A lot of providers got stiffed. They didn't get paid. I-- I have-- I have no idea what they're doing. Am I afraid of being stiffed? Sure, but I-- I've been stiffed before. I'll send somebody up and ask for money in a-- in a brown bag if I have to. Right? So--

WILLIAMS: Thank you.

BILL REAY: Sure.

HOWARD: Thank you. Other questions from the committee? Senator Cavanaugh.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

CAVANAUGH: Thank you. I almost had a technology crisis with my five-year-old, but I've diverted her for a moment, so fingers crossed. Kind of going back to what you were just talking about with the decay in oversight, so you've heard this committee discuss the lack of attendance by both DHHS and Saint Francis in today's hearing, which does make oversight extraordinarily difficult. And reflecting back on what transpired at-- in Beatrice Developmental Center, State Developmental Center, that that brings to light the significance of having these hard conversations. And this is a hard conversation. We're in a difficult spot. So my question to you is, what questions should we be asking as a follow-up to DHHS and Saint Francis? As they're not here, we're going to have to send these questions to them in writing and I'd be curious to know what you think is the important information we should be seeking from them.

BILL REAY: I-- that's a great question and, you know, I-- I was listening to the letters that they submitted, and-- and my notes were: conceptual, full of one-liners, and designed to lead you to conclusions. Right? Come on, I mean, that's-- that's what it is. I think that there's a-- there are three stools to this. There's a technical stool, you know, related to money, how that money is being spent. The biggest problem is they do not have a database on understanding their own population. They don't know who they-- who they serve. So they-- they've "cookie-cutted" everything. It's kind of like going to your physician, right? And your physician is going to treat you from the-- from the lens of what they know and what they do, as opposed to doing a good job and understanding your economic woes and-- and the poverty that you're in and the cultural differences-- differences that there are in this state. So the first thing I would do is explain the population. How many kids in the child welfare system are actually also developmentally disabled that they refuse to provide services to? They won't provide them. They say it's somebody else's problem. How many kids are actually being raised by parents with developmental disabilities that don't know how to raise their children, not out of any dis-- any--any pejorative reason. They don't know. The poverty is immense. So there are kids that don't need to be in the system. They're 15 years old and their-- and their dad or mother have whacked them. That's different than a five-year-old or a three-year-old under the same circumstance. They make no difference, none whatsoever. And they-- and--

CAVANAUGH: Did you see--

BILL REAY: Go ahead, I'm sorry.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

CAVANAUGH: Then-- sorry-- when PromiseShip had the contract, did you see a differentiation that you're not seeing now?

BILL REAY: Yes, there was some differentiation, although I'm always clamoring on that. There-- there-- it has gotten-- it has vanished and it-- differentiate. I was on a phone call yesterday where-- and this was a statewide deal which included Saint Francis, where they were talking about home visits under the COVID circumstance and Beasley came right out and said the expectation is you will go into people's homes, you will have home visits, and for those providers who are unwilling to do that because of workforce concerns, we'll find other provid-- providers to do it. Now that is the most direct evidence of "you're all the same." It doesn't matter. I can get any tomato to do what you do, right? In all my years in Nebraska, I have never heard such an arrogant comment from anyone in state government.

CAVANAUGH: I appreciate your response. And my tech support request has come back, so I will be on pause for a few moments. Thank you.

HOWARD: Thank you. OK, any other questions from the committee? All right, seeing none, thank you for visiting with us today. That's our last invited testifier. And so just in closing, I do appreciate very much the committee's time and attention on this very important issue. I think the next iteration of the HHS Committee is going to have a big challenge on their hands in terms of providing the necessary oversight for this particular contract in the state of Nebraska. And I think I will walk away with three major fears relative to this contract. The first one is that, as Saint Francis continues to remain out of compliance, I worry about the impact to our ability to draw down federal funds for our child welfare system, and then subsequently, how that impact rolls on to our General Fund. Because even if we don't get a federal draw down for our child welfare service, if we don't get our IV-E, we still use General Fund dollars to provide that service because we still have to take care of these kids. And so our best bet is to make sure that we're maximizing federal dollars. But with a contractor that's out of compliance, and our largest contractor, it can truly impact our-- our General Fund. The second thing that I worry about is more of an issue between Kansas and Nebraska. I worry that we looked at a contractor because they had-- they charged us less, but that some Nebraska funds maybe were used to shore up debts in Kansas. And I would never want to think that Nebraska funds, meant for Nebraska children, were sent to another state to assist with the debts of an organization that was financially mismanaged. And then finally, the thing that I worry about the most, and I think the thing that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

will-- will keep this committee up at night, is the potential for harm to a child, because these requirements are not just for federal draw down. I-- I sincerely worry about a critical harm to a child under our watch. It was the thing that kept me up at night while I was serving as Chair, because when a case manager is overloaded, when you have a lot of turnover, when you don't have people who are well trained or confident going into a home, if they don't know exactly what they're doing, you could leave a child in a dangerous situation and that could result in a harm. I think back to 1993, which was a terrible year in the state of Nebraska. We had 17 kids die. Part of it was in our child welfare system. Part of it was there were other reasons for it. But that's when we first created our Child Death Review Team, which is now our Maternal and Child Death Review Team. All we can do is make sure that we provide appropriate oversight. That's our role. But if we aren't providing appropriate oversight, the potential for harm to kids is-- is enormous. And so I look forward to supporting and cheerleading this committee in the future as they monitor this contract and support the department in enforcing the contract and supporting children and families. But you have a very big challenge ahead for you in January. So I'm happy to stand for any questions. We'll send out an email today, most likely this afternoon, just soliciting any additional questions you might have on these three LR's with the anticipation that we'll get a letter out to the agency by Friday. So any final questions for me? Senator Cavanaugh.

CAVANAUGH: I guess I-- I'm not sure if we have already included these questions in the list or not, but some additional questions around the funds and what are the outstanding debts of Saint Francis to providers, because it was a significant underbid, which we have-- this committee has discussed with DHHS and with Saint Francis, and lots of assurances were made that they would not come back asking for more money and that they actually could provide these services at a lower cost because of the infrastructure they had in place in Kansas, which seems to be very much in question now. And so all of the concerns that you expressed, in addition, I would add the concern about are we harming our providers here in Nebraska by not paying them when they take on these services, and is that going to result in an even further diminishing of the quality of care we're able to provide here in Nebraska?

HOWARD: Thank you. All right. Any other final-- Senator Arch.

ARCH: I would add a-- I would add a question along the financial lines as well. Dr. Reay mentioned expenditures to date compared to annual

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

budget and perhaps they could clarify that as well. Where are we-- where are we as a percent of total budget for expenditures to date to Saint Francis?

HOWARD: OK.

ARCH: Thank you.

HOWARD: Great, thank you. All right, any other questions? All right, seeing none, this will close the hearing for LR410. If you were here for LR410 and you are not here for LR422, you are welcome to leave the Zoom now. And then do we have any additional testifiers joining us, T.J. or Paul? Nope, they're all here. Perfect. All right. We will open the hearing for LR422, Senator Arch's interim study to examine the modifications made to child welfare policies and practices during the COVID-19 pandemic of 2020. Welcome, Senator Arch.

ARCH: Thank you. Good afternoon, Senator Howard. Members of the Health and Human Services Committee, for the record, my name is John Arch, J-o-h-n A-r-c-h, and I represent the 14th Legislative District in Sarpy County. I'm here today to introduce LR422. I'll be very brief in my remarks. I introduced LR422 at the request of child advocates and those who provide child welfare services. Very similar to my interim study on telehealth, LR350, this resolution calls for an examination of the modifications made to child welfare policies during the COVID-19 pandemic. I introduced this interim study in July when many regulations were evolving in response to the pandemic. While much is still fluid, it is my understanding guidelines have since been put in place, bringing a little more stability to the child welfare system. The purpose of LR422 is to get a better picture of the types of child welfare services that have been delivered through virtual means, the reimbursement structure for those services, the technology that has been used, and the extent telehealth has been utilized to deliver child welfare services. I believe we have a few testifiers, as well as a letter that will be able to provide that information to us. And so with that, I will end my opening and listen. Thank you.

HOWARD: Thank you, Senator Arch. I apologize. Who was your first testifier or who would you like to go first for your first testifier?

ARCH: Lana Temple-Plotz.

HOWARD: OK.

ARCH: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Welcome. Welcome again, Lana. Thanks for not leaving us.

LANA TEMPLE-PLOTZ: Thank you. Well, it's great to be here today. As I mentioned earlier, my name is Lana Temple-Plotz, CEO of Nebraska Children's Home Society, also serve as president of the Children and Family Coalition of Nebraska, or CAFCON, who I'm testifying on behalf of today. CAFCON is comprised of 11 child welfare and family service provider agencies, as I mentioned before. Since March, our members have moved quickly to ensure the safety of children, families, and their workforce. This included ramping up technology for teams and families, delivering services virtually, and procuring the necessary PPE. CAFCON members continue to provide services without interruption across the state. Access to the paycheck protection loan, CARES funding, and funding from Omaha Community Foundation, United Way of the Midlands and others, have allowed us to continue serving children and families throughout this pandemic. These funds have not only covered payroll, technology, and PPE expenses, but have also allowed us to assist families with concrete supports: rent, utilities, childcare, medical expenses, etcetera. Director Beasley and her Child and Family Services team have engaged providers throughout this time. In early March, they reached out and sought our input as they worked to modify guidance around child, family, and facility contact, allowing agencies to provide services virtually for a period of time. Throughout the summer, they continued to communicate with providers and modify the guidance as needed. Currently, we have transitioned back to face-to-face contact. We appreciate the willingness of both the Nebraska Department of Health and Human Services and the provider community to pivot quickly to develop strategies and practices to ensure children and families' needs were met during the pandemic. This crisis has strengthened the communication between providers and Health and Human Services, and we anticipate this ongoing collaboration will continue. Given all of this, there were several emergency policies and practices changes made during the pandemic, including telehealth. Providers moved quickly to telehealth and continued to provide the necessary treatment services to children, families, and patients during COVID-19, following the President's executive order to improve rural health and telehealth access. We have found these services to be effective, increasing access and timeliness and overall satisfaction with the services received. We ask that telehealth benefits in scope of practice are made permanent beyond this pandemic. This would also include provider rate parity between telehealth and in-person services, family visitation, and face-to-face visits and services. To protect and maintain progress toward currency and ensure the safety

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

and well-being of the children and families we partner with, we were granted permission early on to move to virtual child welfare visits. We ask that this flexibility continue without financial penal--penalty to service providers and allow providers to determine what is best for them, the children and families they serve, and the public. This pandemic is far from over and we need to allow our staff the freedoms to work with each family to determine the situational factors to keep everyone safe. Personal protective equipment, or PPE: As we continue to offer services, it is vital that we have timely access to PPE to ensure the safety of all those we serve and support. And the last thing I'll mention is hazard pay. If CARES Act funds are made available, we recommend a change to how essential workers are defined. Team members working directly with children and families provide valuable support and education, which, during these stressful times, are even more in need. Having access to hazard pay for our direct-care staff is one more way to maintain and compensate our workforce, thus ensuring families have both the tools and the team they need to be successful. Thank you for your time today and I'm happy to answer any questions.

HOWARD: Thank you. Are there questions from the committee? All right, seeing none, thank you for visiting with us today. Our next testifier is Sarah Helvey from Nebraska Appleseed.

SARAH HELVEY: Thank you. Good afternoon, everyone. My name is Sarah Helvey. It's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. The COVID-19 pandemic has presented unprecedented economic, educational, and health challenges for our state and for the world. And we know that children and families who are involved with the foster care system in particular have faced additional struggles during this time. To get a better sense of this, Appleseed filed a data request with HHS in June of this year. From that, we learned a few things. We learned that entries into the system, both court and noncourt entries, were down from March through May of 2020. Compared with that same time frame in 2019, the data also-- that we were provided also showed that there were fewer reunifications, which is of particular concern. With that said, there has been a lot of attention in the national media to the fact that reports to state hotlines have been down during the pandemic without the eyes of teachers and other profess-- other professionals on children. And indeed, in March and April of this year, calls to Nebraska's hotline were down 6 to 38 percent in Nebraska, and that's consistent with national trends. Intakes from schools were down 86 percent in April of 2020 compared to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

April of 2019, and intakes from medical professionals were down 25 percent during that same time frame. However, we think it's important to note that the-- sorry. Also provided as part of that data was that the percentage of hotline reports that were accepted for investigation increased in March through May of 2020 compared to that same time frame in 2019. But we think it's important to, you know, kind of give some extra thought to that data. That could be due to an increase in accuracy of reports. And in Nebraska, we know that we get a lot of reports to the hotline and a very few percent of that is substantiated. So in Nebraska, only 5 percent of reports are substantiated after an accepted intake, and the vast majority of those cases, 80 percent, involve neglect. So based on that, we know the most significant need is access to direct economic assistance, such as TANF and SNAP and other preventive services, and that the need for economic support for families has perhaps never been more critical than during this pandemic. It's important to note also that there is evidence to support racial bias and discrimination at the front door of the system, with the Annie E. Casey Foundation finding that families of color are more likely to be investigated, reported, and placed in foster care. So there are valid concerns about the impact of the pandemic on children. We urge caution in drawing the conclusion that fewer reports to the hotline and less surveillance of families, particularly families of color in itself, means that children are less safe. Instead, we believe the focus should be on ensuring community services and supports are available to families during this time of need, and that for children who are already in the system, we are ensuring rehabilitation and other services that are accessible and timely. Next, I want to highlight some needs and progress related to older youth in care during the pandemic. Older youth who age out of foster care under normal circumstances are at a very high risk of homelessness and unemployment and a very small percentage are able to pursue or complete postsecondary ed, which we know is one of the best pathways out of poverty. Of course, the pandemic has made access to education, employment, and housing even more tenuous in our community. This is especially true for youth who age out of foster care and don't have the same family supports to fall back on. And we've talked to a number of-- of youth in our community in that situation. To address the needs of this population, in 2013, the Nebraska Legislature joined 22 other states to create the Bridge to Independence Program, which is an evidence-based program to provide extended services and support, including a monthly stipend, healthcare coverage, and caseworker support for youth who age out of foster care to age 21 to help bridge that gap. To participate in that program, eligible young adults need

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

to be either working, going to school, or have a barrier to that. This program was recently evaluated by national experts and showed good outcomes. During the pandemic, we have greatly appreciated that DHHS acted quickly to maintain eligibility of young adults in B2I if they were unable to continue in school or work because of closures due to the coronavirus. In addition, HHS and private partners also created a support program for young adults who turned 21 and would have aged out of extended foster care during the pandemic. We're unsure of the future of those efforts in Nebraska, and that's one reason why we have been working at Appleseed with our federal delegation to support legislative recommendations at the federal level in the next COVID-19 relief bill that would suspend education and work requirements in extended foster care and place a moratorium on youth between the ages of 18 and 21 from aging out during the pandemic because there is so-- you know, even fewer supports available to this population. I note that Nebraska Representative Bacon is a cosponsor of this legislation at the federal level, and we continue to monitor it due to the potential impact for young people here in Nebraska. And with that, I just want to thank the committee for your commitment to the well-being of children and families in Nebraska and for taking the time to give some particular attention to the impact of the COVID-19 pandemic on children in-- and our children and families that come into contact with child welfare.

HOWARD: Thank you. Are there questions from the committee? All right, seeing none, thank you for visiting with us today, Senator Arch, you are welcome to close.

ARCH: There was a letter submitted from the department regarding-- regarding this particular LR. We read LR410 in. I don't think we read LR422 in.

HOWARD: You know, we did not read LR422 in. T.J. or Paul, do you have the DHS-- DHHS letter that you did for Saint Francis? Do you want to read the LR422 piece into the record?

T. J. O'NEILL: Sure, I'd be happy to. Again, the Department of Health and Human Services submitted a letter for-- an information sheet for both LR410 and LR422. This is the letter or the information sheet from LR422. Modifications to child welfare policies and practices during the 2020 COVID-19 pandemic, DHHS partnerships: In late February, CFS began experiencing the impact of COVID-19 on children and families within the child welfare system. However, the pandemic rapidly provided an opportunity to highlight the strength of our services and

partnerships in Nebraska. At the onset of the emergency declaration, CFS began regular meetings with child welfare providers, stakeholders, and community services providers to assess and address the impact of COVID-19 on local communities and families. This allowed for real-time dissemination of information to our providers and partners while providing a framework for thoughtful collaboration to address the evolving needs caused by COVID-19. CFS policy changes: In order to meet the exceptional and unique challenges COVID-19 presented to the child welfare system, temporary changes to policy and practice were needed, many of which are detailed below. Importantly, these changes were done in consultation with federal partners at the U.S. Department of Health and Human Services, Division of Public Health, and judicial partners. Safety assessments: Despite temporary changes to practice, CFS's commitment to the safety of vulnerable children remained a priority. This includes the continuation of in-person safety assessment. Guidelines and protocols were provided to initial assessment workers to mitigate the risk of exposure to COVID-19, including the use of personal protective equipment, or PPE, physical distancing practices, and sanitization of equipment and materials upon the completion of an initial assessment or alternative response visit. Virtual Services: CFS provided guidance to local providers about transitioning services for children and families to virtual platforms in order to limit the spread of COVID-19. The DHHS Division of Public Health developed and reviewed guidance documents prior to release to the provider network. In addition, CFS worked with the court system to ensure that transitions to virtual services would not conflict with court orders nor directives of local health departments. In March, the first guidance document was released detailing the ability to accommodate virtual services. This presented challenges to child welfare providers as most services are conducted through face-to-face interactions. To ensure the services continued, CFS modified current contracts from fee-for-service reimbursement to a case rate in April. This provided fiscal stability for child welfare contractors and encouraged them to facilitate family visitations and provide services through virtual means. Provider guidance: In early May, as Nebraska began implementing its four-phase directed health measures, DHMs, CFS developed provider guidance to resume face-to-face visits. Currently, CFS expects child welfare providers to conduct face-to-face visits, though exceptions may occur based on the family circumstances or geographical location. Importantly, any decision recommending against face-to-face contact must be made by the child and family team, as well as be reflective of applicable DHMs. A copy of this policy change is included, titled "Guidance on Child, Family and Facility Contact

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

during the COVID-19 Public Health Emergency." Drug testing: During this time, CFS made changes to the utilization of drug testing. Importantly, this decision was made under the advisement and in consultation with behavioral health and medical experts and the state's judicial partners. These changes authorized providers to suspend drug testing through urine analysis and oral swab unless ordered by the court, and to replace these means with alternative methods for collecting specimen, specifically through the administering of sweat patches and continuous alcohol monitoring, or CAM devices. CFS provided guiding principles for drug testing, which is included in our packet, to child welfare contractors detailing this information. However, as noted above, as the state moved to more relaxed DHMs, CFS has encouraged resumption of several methods for administering drug testing, including the ability for providers to administer urine analysis. In-person services: Finally, CFS made changes to in-person services such as intensive family preservation, foster home care visits, and home studies and resource developments to mitigate the risk of exposing staff and clients to COVID-19. However, as of May 2020, CFS expected child welfare providers and contractors to resume these services, including family preservation services, foster care home visits and home studies, including one walk-through of a family's home, before CFS would issue a license or approve a relative kinship or out-of-state placement. That is the end of the letter for LR422.

HOWARD: Thank you, T.J. Paul, could you read Saint Francis' letter for LR422?

PAUL HENDERSON: Sure. Dear Senator Arch and members of the Health and Human Services Committee, please enter this letter into the official record of LR422, an interim study to examine the modifications made to child welfare policies and practices during the COVID-19 pandemic of 2020. We recognize the importance of this study and have provided written information about the Saint Francis Ministries response to the COVID-19 pandemic. Saint Francis is committed to providing full-service case management [RECORDER MALFUNCTION] while Saint Francis has maintained its dedication throughout the unprecedented conditions of the COVID-19 pandemic in the state's most densely populated region. Saint Francis recognizes the importance of maintaining the connection between children and their families, and together with providers, and swiftly responded by creating two new services: virtual parenting time, supervised visitation [RECORDER MALFUNCTION] and caregivers to stay connected and providers to continue their excellent services for children and families. Saint

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

Francis also worked with DHHS and local volunteers to ensure every employee, family member, and service provider had access to any needed personal protective equipment, so needed safety interventions could occur safely. We are very appreciative to the many partners, donors, and volunteers who made acquire-- acquiring enough masks a reality. Saint Francis also began immediately working with relative and kin families, along with prospective and potential kin placements, to determine the necessary supports to keep children placed with their relatives and kin whenever possible. Saint Francis continues to believe that children grow best in families, even in the midst of an unprecedented worldwide pandemic, and work diligently to provide children with this opportunity when at all possible. With the support of the Nebraska child welfare service providers, Saint Francis has been able to continue providing reasonable efforts to reunify families in a timely manner. Please reach out to myself at jodie.austin@st-francis.org, our director of communications, Morgan P. Rothenberger, at morgan.rothenberger@st-francis.org, or our vice president of children and family services at diane.carver@st-francis.org, with any questions or need for further information. Sincerely, Jodie A. Austin.

HOWARD: Thank you, Paul. And I apologize for the background noise. Paul is in-- in the office and there are other folks working in the office as well. All right, with that, Senator Arch, would you like to close?

ARCH: Thank you. I just want to make a couple of comments regarding the-- the-- the virtual visits that was discussed today. There's going to-- this is going to play itself out, I'm sure, over time. As-- as we've had experience now with virtual visits for child welfare in-home visits, whether-- whether that will continue in some form to augment face-to-face visits, whether the federal government will continue to allow virtual visits and-- and not go back, whether the waiver will stay in place, a lot of things yet to come on-- on-- on providing that. Obviously, the safety of the child on the-- the face-to-face visits may be-- may be essential to making sure that we lay eyes and-- and we-- and we balance that, the effectiveness of a virtual visit versus an in-person. So I'm sure that there will be more that will come before the committee in the-- in the future on the matter. But this was to give us a little-- a snapshot of where we are right now and the impact of COVID. So thank you. Thank you to the-- to the committee members and-- and Senator Howard. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee December 16, 2020
Rough Draft

HOWARD: Thank you, Senator Arch. Are there any questions for Senator Arch? All right, seeing none, this will close our hearing for LR422. This is my last hearing in the Legislature, so I've loved working with all of you. And many thanks to Paul and T.J. because they did such a good job these past couple of weeks. So all right. Merry Christmas, everybody. Have a great holiday.

ARCH: Merry Christmas.

WILLIAMS: Thank you, Madam Chairwoman.

HOWARD: I'm leaving.

CAVANAUGH: Don't go.

SARAH HELVEY: Thank you.

CAVANAUGH: Gonna miss you.

MURMAN: Merry Christmas.